



DEPARTMENT OF CONSUMER AFFAIRS
 CALIFORNIA BOARD OF ACCOUNTANCY
 2000 EVERGREEN STREET, SUITE 250
 SACRAMENTO, CA 95815-3832
 TELEPHONE: (916) 263-3680
 FACSIMILE: (916) 263-3675
 WEB ADDRESS: <http://www.cba.ca.gov>



**CALIFORNIA BOARD OF ACCOUNTANCY
 PUBLIC MEETING NOTICE FOR THE ENFORCEMENT PROGRAM OVERSIGHT
 COMMITTEE, COMMITTEE ON PROFESSIONAL CONDUCT, AND CALIFORNIA BOARD
 OF ACCOUNTANCY MEETINGS**

DATE: Thursday, November 19, 2015

**ENFORCEMENT PROGRAM OVERSIGHT
 COMMITTEE MEETING**

TIME: 9:00 a.m.

DATE: Thursday, November 19, 2015

**COMMITTEE ON PROFESSIONAL CONDUCT
 MEETING**

TIME: 9:15 a.m. or upon adjournment of the
 Enforcement Program Oversight Committee
 Meeting

DATE: Thursday, November 19, 2015

**CALIFORNIA BOARD OF ACCOUNTANCY
 MEETING**

TIME: 9:30 a.m. to 5:00 p.m.

PLACE: Hilton Pasadena
 168 South Los Robles
 Pasadena, CA 91101
 Telephone: (626) 577-1000

Enclosed for your information is a copy of the agendas for the Enforcement Program Oversight Committee, Committee on Professional Conduct, and the California Board of Accountancy meetings on November 19, 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) 561-1716, or email cfriordan@cba.ca.gov, or send a written request to the California Board of Accountancy 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
 ENFORCEMENT PROGRAM OVERSIGHT COMMITTEE**

MEETING AGENDA
Thursday, November 19, 2015
9:00 a.m.

Hilton Pasadena
168 South Los Robles
Pasadena, CA 91101
Telephone: (626) 577-1000

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 Enforcement Program Oversight Committee Chair. The meeting may be cancelled without notice. For verification of the meeting, call (916) 561-1716 or access the California Board of Accountancy's website at <http://www.cba.ca.gov>.

	<u>CBA Item #</u>
Call to Order, Roll Call, and Establishment of Quorum (Kay Ko, Chair).	
I. Approve Minutes of the May 28, 2015 Enforcement Program Oversight Committee Meeting.	XII.B.
II. Discussion and Possible Action to Seek Legislation to Add Authority to Examine Licensees for Mental and Physical Illness Affecting Competency (Matthew Stanley, Information and Planning Officer).	XI.A.2.
III. Public Comments.*	
IV. Agenda Items for Next Meeting.	
Adjournment	

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

California Board of Accountancy members who are not members of the Enforcement Program Oversight Committee may be attending the meeting. However, if a majority of members of the full board are present at the Enforcement Program Oversight Committee meeting, members who are not Enforcement Program Oversight Committee members may attend the meeting only as observers.



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**CALIFORNIA BOARD OF ACCOUNTANCY
 COMMITTEE ON PROFESSIONAL CONDUCT**

MEETING AGENDA

Thursday, November 19, 2015

9:15 a.m.

Or Upon Adjournment of the Enforcement Program Oversight Committee Meeting

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

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 Committee on Professional Conduct Chair. The meeting may be cancelled without notice. For verification of the meeting, call (916) 561-1716 or access the California Board of Accountancy's website at <http://www.cba.ca.gov>.

	<u>CBA Item #</u>
Call to Order, Roll Call, and Establishment of Quorum (Leslie LaManna, Chair).	
I. Approve Minutes of the September 17, 2015 Committee on Professional Conduct Meeting.	XII.C.
II. Discussion and Possible Action to Initiate a Rulemaking to Amend Title 16, California Code of Regulations Section 87 – Continuing Education Requirements (Gina Sanchez, Licensing Chief).	XI.B.2.
III. Update on the Study of California's Attest Experience Requirement (Gina Sanchez).	XI.B.3.
V. Public Comments.*	
VI. Agenda Items for Next Meeting.	
Adjournment	

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

California Board of Accountancy members who are not members of the Committee on Professional Conduct may be attending the meeting. However, if a majority of members of the full board are present at the Committee on Professional Conduct meeting, members who are not Committee on Professional Conduct members may attend the meeting only as observers.



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**DEPARTMENT OF CONSUMER AFFAIRS
CALIFORNIA BOARD OF ACCOUNTANCY**

MEETING AGENDA

**November 19, 2015
9:30 a.m. – 5:00 p.m.**

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

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 California Board of Accountancy’s President. The meeting may be cancelled without notice.

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**Thursday,
November 19, 2015
9:30 a.m. –
9:50 a.m.**

Call to Order, Roll Call, and Establishment of Quorum
(**Jose Campos, President**).

- I. Report of the President (**Jose Campos**).
 - A. Report of the National Association of State Boards of Accountancy’s 108th Annual Meeting.
 - B. Resolution for Retiring Qualifications Committee Member Jeremy Smith.
 - C. Comment Regarding the American Institute of Certified Public Accountants’ Exposure Draft Regarding the Uniform CPA Examination (**Gina Sanchez, Licensing Chief**).
 - D. 2016 California Board of Accountancy Member Committee Interest Survey (**Corey Riordan, Board Relations Analyst**).

- E. Presentation and Discussion Regarding February 2015 United States Supreme Court decision: North Carolina State Board of Dental Examiners v. Federal Trade Commission (FTC), and Related Formal Opinion from the Office of the California Attorney General, FTC Staff Guidance and Legislative Hearings (**Kristy Schieldge, Attorney III, DCA Legal Counsel**)
- F. Department of Consumer Affairs Director's Report (**DCA Representative**).

9:50 a.m. –
10:00 a.m.

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

10:00 a.m. –
10:05 a.m.

- III. Report of the Secretary/Treasurer (**Alicia Berhow**).
 - A. Fiscal Year 2015-16 First Quarter Financial Statement and Update on Repayment of Loans to the California Board of Accountancy from the General Fund.

10:05 a.m. –
10:35 a.m.

- IV. Report of the Executive Officer (**Patti Bowers**).
 - A. Update on the Relocation of the California Board Accountancy's Office.
 - B. Update on Staffing.
 - C. Discussion Regarding the California Board of Accountancy's Organizational Effectiveness in Regards to Hiring, Training, and Refilling Vacancies.
 - D. Discussion Regarding the California Board of Accountancy's Public Communications and Outreach Activities and Plan (**Matthew Stanley, Information and Planning Officer**).
 - E. Report on the California Board of Accountancy's 2015-17 Workforce and Succession Plan (**Matthew Stanley**).
 - F. Discussion Regarding Possible Changes to the Delegation of Authority of the Executive Officer.

- 10:35 a.m. –
10:40 a.m.**
- V. Report on the Enforcement Advisory Committee, Qualifications Committee, and Peer Review Oversight Committee.
 - A. Enforcement Advisory Committee (**Jeffrey De Lyser, Chair**).
 - 1. Report of the October 22, 2015 Enforcement Advisory Committee Meeting (**Jeffrey De Lyser and Larry Kaplan, California Board of Accountancy Member**).
 - 2. Approval of the 2016 Enforcement Advisory Committee Meeting Dates.
 - B. Qualifications Committee (**Robert Ruehl, Chair**).
 - 1. Report of the October 21, 2015 Qualifications Committee Meeting (**Robert Ruehl and Kathleen Wright, Qualifications Committee Liaison**).
 - C. Peer Review Oversight Committee (**Robert Lee, Chair**).

No Report.
- 10:40 a.m. –
11:10 a.m.**
- VI. Report of the Enforcement Chief (**Dominic Franzella**).
 - A. Enforcement Activity Report.
 - B. Method of Mailing and Service of Notice When Contacting Licensees and Applicants Regarding CBA Licensing and Enforcement Matters.
- 11:10 a.m. –
11:20 a.m.**
- VII. Report of the Licensing Chief (**Gina Sanchez**).
 - A. Licensing Activity Report.
- 11:20 a.m. –
12:00 p.m.**
- VIII. Closed Session. **The Board will meet in Closed Session pursuant to Government Code Section 11126(a)(1) to conduct its annual evaluation of the performance of its Executive Officer.
- 12:00 p.m. –
1:30 p.m.**
- Lunch.
 - IX. Regulations (**Matthew Stanley**).
 - A. Regulation Hearing Regarding Title 16, California Code of Regulations Section 42 – Peer Review Reporting.
- TIME CERTAIN
1:30 p.m.**

- B. Discussion and Possible Action to Amend Title 16, California Code of Regulations Section 42 – Peer Review Reporting.
- C. Report on the Status of the Rulemaking to Amend Title 16, California Code of Regulations Section 70 – Fees.

TIME CERTAIN
1:35 p.m. –
2:35 p.m.

- X. Petition Hearings.
 - A. Alan D. Shattuck – Petition for Reinstatement of Revoked Certificate No. 13898.
 - B. Closed Session.**Pursuant to Government Code Section 11126(c)(3), the California Board of Accountancy Will Convene into Closed Session to Deliberate on Disciplinary Matters (Petitions for Reinstatement of Revoked Certificate).

2:35 p.m. –
2:50 p.m.

- XI. Committee Reports.
 - A. Enforcement Program Oversight Committee (**Kay Ko**).
 1. Report of the November 19, 2015 Enforcement Program Oversight Committee Meeting.
 2. Discussion and Possible Action to Seek Legislation to Add Authority to Examine Licensees for Mental and Physical Illness Affecting Competency
 - B. Committee on Professional Conduct (**Leslie LaManna**).
 1. Report of the November 19, 2015 Committee on Professional Conduct Meeting.
 2. Discussion and Possible Action to Initiate a Rulemaking to Amend Title 16, California Code of Regulations Section 87 – Continuing Education Requirements.
 3. Update on the Study of California’s Attest Experience Requirement.

2:50 p.m. –
2:55 p.m.

- XII. Acceptance of Minutes.
 - A. Draft Minutes of the September 17-18, 2015 California Board of Accountancy Meeting.
 - B. Minutes of the May 28, 2015 Enforcement Program Oversight Committee Meeting.

- C. Minutes of the September 17, 2015 Committee on Professional Conduct Meeting.
- D. Minutes of the July 9, 2015 Enforcement Advisory Committee Meeting.
- E. Minutes of the July 29, 2015 Qualifications Committee Meeting.

2:55 p.m. –
3:00 p.m.

XIII. Other Business.

A. American Institute of Certified Public Accountants.

- 1. Report on Public Meetings of the American Institute of Certified Public Accountants Attended by a California Board of Accountancy Representative.

B. National Association of State Boards of Accountancy.

- 1. Report on Strategic Planning Task Force (**Michael Savoy**).
- 2. Report on Public Meetings of the National Association of State Boards of Accountancy Attended by a California Board of Accountancy Representative.

3:00 p.m. –
3:20 p.m.

XIV. Officer Elections.

A. Secretary-Treasurer.

B. Vice-President.

C. President.

3:20 p.m. –
3:25 p.m.

XV. Closing Business.

A. Public Comments.*

B. Agenda Items for Future California Board of Accountancy Meetings.

C. Press Release Focus (**Matthew Stanley**).

3:25 p.m. –
5:00 p.m.

XVI. Closed Session.**

- A. Pursuant to Government Code Section 11126(c)(3), the California Board of Accountancy Will Convene Into Closed Session to Deliberate on Disciplinary Matters (Stipulated Settlements, Default Decisions, and Proposed Decisions).

- B. Pursuant to Government Code Section 11126(e), the California Board of Accountancy Will Meet In Closed Session to Receive Advice from Legal Counsel on Litigation (David Greenberg v. California Board of Accountancy, Orange County Superior Court, Case No. 30-2014-00751855-CU-BT-CJC; David Greenberg v. California Board of Accountancy, Los Angeles County Superior Court, Case No. BS155045; David B. Greenberg v. California Board of Accountancy, Orange County Superior Court, Case No. 30-2015-00809799-CU-WM-CJC; David B. Greenberg v. California Board of Accountancy, Orange County Superior Court, Case No. 30-2015-00809802-CU-WM-CJC; and, David Greenberg v. Erin Sunseri, et al., U.S. District Court, Southern District of Florida, Case No. 15-CV-80624.).

Adjournment

**Action may be taken on any item on the agenda. The time and order of agenda items, including closed session, are subject to change at the discretion of the California Board of Accountancy's President and may be taken out of order.

In accordance with the Bagley-Keene Open Meeting Act, all meetings of the California Board of Accountancy are open to the public. While the California Board of Accountancy intends to webcast this meeting, it may not be possible to webcast the entire open meeting due to limitations on resources.

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CBA Item I.A.
November 19, 2015

Report of the National Association of State Boards of Accountancy's 108th Annual Meeting

Presented by: Jose A. Campos, CPA, President

Consumer Protection Objectives

The purpose of this agenda item is to provide the California Board of Accountancy (CBA) with an overview of the National Association of State Boards of Accountancy's (NASBA) 108th Annual Meeting. NASBA is an organization comprised of 55 accounting jurisdictions that focuses on creating forums for accounting regulators and practitioners to address issues relevant to the viability of the accounting profession and to aid boards, including California, in their mission and mandate to protect consumers.

Action(s) Needed

No specific action is required on this agenda item.

Background

NASBA conducts an annual meeting to provide an opportunity for state board members, executive directors, and other stakeholders to discuss major issues facing the regulation of the public accounting profession.

Comments

NASBA held its 108th Annual Meeting in Dana Point, California, on October 25-28, 2015. Fifty-one jurisdictions were represented with over 400 attendees. There were several representatives from California, in addition to myself, including CBA Vice-President Katrina Salazar, CPA, CBA members Leslie LaManna, CPA, and Michael Savoy, CPA, CBA Executive Officer Patti Bowers, Assistant Executive Officer Deanne Pearce, Licensing Division Chief Gina Sanchez, Peer Review Oversight Committee Chair Robert Lee, CPA, Deputy Attorney General Carl Sonne, former CBA members Ruben Davila and Sally Flowers, and representing the California Society of CPAs, Jason Fox and Loretta Doon.

The conference provided information and discussion on a wide variety of topics as outlined on the agenda (**Attachment**). Each speaker provided an insightful perspective on issues that boards of public accountancy are presently facing.

Report of the National Association of State Boards of Accountancy's 108th Annual Meeting

Page 2 of 3

There were also morning breakout sessions, including one for the Pacific Region boards where information was shared on topics including retired status licensure, peer review, mobility and the recent Federal Trade Commission case involving the North Carolina State Board of Dental Examiners. There was a breakout session on communications and outreach and separate breakout sessions for board chairs, executive directors and board staff, and state society representatives.

Following is a brief overview of some of the topics that the CBA may find of interest and that may be presented within the coming year:

Chartered Global Management Accountant

The American Institute of CPAs (AICPA) recently announced that it will be adopting a resolution to allow non-certified public accountants that have obtained the Chartered Global Management Accountants (CGMA) designation to hold an AICPA membership. There will be various rules, including provisions regarding the use of credentials/titles and solicitation of clients.

Statement on Standards for Continuing Education

Information was presented on the Statements on Standards for Continuing Education (Standards). Specifically, as a result of feedback received via comment letters, there will be a second exposure draft issued in 2016 with further proposed changes to the Standards. Once the exposure draft is released, it will be scheduled for discussion at the following CBA meeting.

Enforcement Presentation

A panel discussion was held on various enforcement-related topics, including NASBA's Guiding Principles of Enforcement (Enforcement Guidelines), the Department of Labor Audit Quality Study, and the AICPA Board Cooperative Enforcement Project.

During the discussion, Stacey Grooms, Regulatory Affairs Manager for NASBA, provided a robust overview of the NASBA Enforcement Guidelines, including why they were developed, how they will be used in relation to the CBA, and the importance of the Enforcement Guidelines as they relate to mobility for all jurisdictions.

Further discussion was held regarding the DOL Audit Quality Study and the important roles the boards will play in addressing the failures by CPA firms and the necessary improvements that must occur.

Last, an overview was provided regarding the enforcement activities of the AICPA. Specifically, information was provided regarding investigations that are conducted by the AICPA, including the outcome/disposition of such investigations. It was mentioned that the AICPA would share investigative files with boards and although they would work cooperatively, each organization would reach their own disposition.

Report of the National Association of State Boards of Accountancy's 108th Annual Meeting

Page 3 of 3

Uniform CPA Exposure Draft

An overview of the proposed changes to the Uniform CPA Examination were presented by a panel of experts from the AICPA Board of Examiners. The BOE is encouraging all jurisdictions to provide comments regarding the proposed changes. It was clear during the discussion that the BOE is not only focused on the proposed changes that will occur in 2017, but are already looking at proposed changes for the next two practice analyses that will occur in the future.

Fiscal/Economic Impact Considerations

There are no fiscal/economic impact considerations.

Recommendation

Staff do not have a recommendation on this agenda item.

Attachment

NASBA 108th Annual Meeting Agenda



AGENDA

108th Annual Meeting
Dana Point, California October 25-28, 2015

Foreword

Recognizing the need for cooperation and communication among Boards of Accountancy, NASBA sponsors an Annual Meeting in the fall of each year that provides a unique opportunity for State Board members, executive directors and others interested in the profession to discuss freely and candidly the major issues facing state regulation of public accountancy.

The site of NASBA's 108th Annual Meeting, Dana Point, CA, has been the site of several outstanding NASBA meetings. In this inspiring setting, we will exchange new ideas and consider how to help the Boards protect the public by utilizing the best thinking of regulators, professionals, academics and other interested parties.

Throughout the year, NASBA committees and staff have been engaged in communication with the member Boards to keep information flowing. The Annual Meeting is the capstone of those efforts. Speakers from the Financial Accounting Foundation, American Accounting Association, American Institute of Certified Public Accountants, Association to Advance Collegiate Schools of Business and others will join NASBA's leaders in addressing the major regulatory issues involved in ensuring the Boards' licensees meet the public's expectations. Through plenary presentations, regional meetings and informal gatherings, participants will be encouraged to share their views with colleagues from other jurisdictions, and consider the ways in which Accountancy Boards can be responsive to the public's needs.

In addition to the outstanding business program, NASBA has arranged a variety of social events that are designed to provide an opportunity to interact in a casual way and to make everyone's visit to California a memorable occasion.

Registration

On Sunday, October 25, registration will be open from 3:00 p.m. until 5:00 p.m. in the Richard H. Dana Ballroom Foyer. Thereafter, it will be open one half-hour before and during all business sessions and will continue to be located in the Ballroom Foyer.

Looking For Ribbons

New Board of Accountancy members and executive directors bring fresh life to NASBA. Because they are so important to our organization, we have provided a first time ribbon for all delegates and executive directors attending their first NASBA Annual Meeting. If you are wearing a first time ribbon, NASBA is particularly pleased you have joined us. If you see a first time ribbon, please extend a sincere welcome to the person wearing it.

Conversation Café

Are you looking for a place to connect with fellow meeting attendees? Enjoy the Conversation Café – a relaxed environment to connect with your peers throughout the conference. Located in Lantern Bay III on the Ballroom Level, the Conversation Cafe will be open daily.



Sunday, October 25

Welcome Reception

6:00 p.m. – 8:00 p.m.

Vue Lawn

Come say “Hello” to old friends and new as we start to consider the issues that will unfold over the next few days.

Monday, October 26

Board Communications Breakfast Meeting

7:15 a.m. – 8:15 a.m.

Lantern Bay

Board communications officers, executive directors, State Board members and State Society members are welcome to share ideas for letting the public know the Boards of Accountancy are the entities to protect the public.

Breakfast (All Welcome)

7:15 a.m. – 8:15 a.m.

Vue Lawn

Opening Plenary Session

8:30 a.m. - Noon

Richard H. Dana Ballroom

Call to Order and Introductions

8:30 a.m. – 8:40 a.m.

Walter C. Davenport, CPA

Chair, NASBA

Past President, North Carolina State Board of CPA Examiners

Retired Partner, Cherry, Bekaert & Holland

Greetings from California

8:40 a.m. – 9:00 a.m.

Jose A. Campos, CPA

Chair, California Board of Accountancy

Partner, Deloitte & Touche, LLP

Disruptive Demographics: Implications for the Accounting Profession

9:00 a.m. – 10:00 a.m.

James H. Johnson, Jr.

Distinguished Professor of Entrepreneurship & Strategy, University of North Carolina–Kenan-Flagler Business School

All of the nation’s social, economic and political institutions will be changed by six disruptive demographic trends which Dr. Johnson will outline. Census data and data from the American Community Survey will be used to describe these trends and to assess the specific implications the trends will have on the U.S. accounting profession.

Monday, October 26 (continued)

Report from NASBA Chair 2014-2015

10:00 a.m. – 10:15 a.m.

Walter C. Davenport, CPA
2014-2015 Chair, NASBA

Walter C. Davenport summarizes NASBA's activities during the past year, a year of making the voice of the State Boards heard and recognized. His focus on embracing the future has resulted in an emphasis on planning for new developments in education, examination and enforcement including recognition of talent from diverse groups. Assisted by the work of NASBA's committees, Chair Davenport has been actively involved in responding to exposure drafts and speaking up for the Boards of Accountancy in professional panels. He strengthened ties with the academic community and guided the State Boards to more cooperative and productive relationships with the profession as well as with other regulators. Chair Davenport reports on the progress of initiatives he launched, as well as those launched by his predecessors.

BREAK

10:15-10:45 a.m.

Richard H. Dana Ballroom Foyer

Future Plans from the 2015-2016 AICPA Chairman

10:45 a.m. – 11:00 a.m.

Timothy L. Christen, CPA, CGMA
2015-2016 Chairman, American Institute of Certified Public Accountants
Chairman & CEO, Baker Tilly Virchow Krause, LLP

As he takes up the leadership of American Institute of CPAs, Timothy L. Christen reports on its ongoing and upcoming projects and how they will impact the Boards of Accountancy. Mr. Christen looks at the roles that the AICPA and the State Boards need to play in the professional lives of all CPAs.

Getting Ready for the Next Version of the Uniform CPA Examination: Reviewing the Exposure Draft

11:00 a.m. – Noon

MODERATOR:

Colleen K. Conrad, CPA
Executive Vice President & COO, NASBA

PANELISTS:

Michael A. Decker
Vice President – Examinations, AICPA

Frederick Niswander, CPA
Chair, AICPA Board of Examiners 2013-15

Richard N. Reisig, CPA
Chair, NASBA CBT Administration Committee

Panelists discuss the key features of the exposure draft on the next version of the Uniform CPA Examination. How these changes will impact the State Boards' laws and rules will be considered, as well as action steps that need to be taken to keep the CPA Examination uniform. Administration issues that Boards need to consider will be underscored.

Monday, October 26 (continued)

Business Luncheon

Noon – 1:45 p.m.

Vue Lawn

National Political Overview

12:30 – 1:45 p.m.

Donna Brazile

On-Air Contributor to ABC and CNN

Political strategist, televised commentator and syndicated columnist, Donna Brazile, will share her views on American politics and working within the system to strengthen it.

Afternoon Plenary Session

2:00 p.m. – 5:00 p.m.

Richard H. Dana Ballroom

What Peer Review Information is Available Today: Limitations and Challenges

2:00 p.m. – 2:30 p.m.

Susan S. Coffey, CPA, CGMA

Senior Vice President – Public Practice & Global Alliances, AICPA

Janice L. Gray, CPA

Chair, Compliance Assurance Committee, Director-at-Large, NASBA

Not all states have Peer Review Oversight Committees and not all Peer Review Oversight Committees are accessing the information currently available through the AICPA's Facilitated State Board Access program. There are visions of how technology will improve peer review in the future, but this session will focus on what information is out there today for the Boards.

Advancing Diversity

2:30 p.m. – 3:30 p.m.

MODERATOR:

Alfonzo Alexander

Chief Relationship Officer, NASBA

PANELISTS:

Susan M. Cospoer

Chairman, FASB Emerging Issues Task Force

Kim Drumgo

Director of Diversity & Inclusion Initiatives, AICPA

Tyrone E. Dickerson, CPA

Chair, NASBA Diversity Committee

Bernard J. Milano, CPA

President, The Ph.D. Project

Panelists discuss what their organizations are doing to encourage minority group members to become CPAs and move into leadership positions in the profession, education and government. The successes and failures of these efforts will be discussed, as well as what individuals can do to assist those organizations.

BREAK

3:30 – 3:45

Richard H. Dana Ballroom Foyer

Monday, October 26 (continued)

Enforcement: Connecting the Dots

3:45 - 4:45 p.m.

Richard H. Dana Ballroom

MODERATOR:

Maria L. Caldwell, Esq.

Chief Legal Officer & Director of Compliance Services, NASBA

Guiding Principles of Enforcement

Stacey L. Grooms, Esq.

Manager, Regulatory Affairs NASBA

DOL Audit Quality Study Update

Randall A. Ross, CPA

Executive Director, Oklahoma Accountancy Board

AICPA/ Board Cooperative Enforcement Project

Lisa A. Snyder, CPA, CGMA

Director, AICPA Professional Ethics

Three topics blend together to give an overall picture of the enforcement area. These cover “The Guiding Principles of Enforcement” developed by NASBA and adopted by the California Board to help them measure states’ current efforts; What the Boards have done in response to the findings of the Department of Labor’s review of employee benefits plan audits is reported on by Mr. Ross and Ms. Grooms; And, finally, how the AICPA and State Boards can work together to expedite the discipline process is addressed.

NASBA Center for the Public Trust – 10-Year Recognition

4:45 - 5:00 p.m.

Alfonzo Alexander

President, NASBA Center for the Public Trust

Come celebrate 10 years of Being a Difference with the NASBA Center for the Public Trust (CPT). The CPT will be giving awards to supporters and acknowledging special events in its 10 years of Being a Difference. (Celebration to be held following recess on the Vue Lawn).

RECESS

5:00 p.m.

Tuesday, October 27

Regional Breakfast Meetings

7:00 a.m. – 8:45 a.m.

Representatives from neighboring jurisdictions have an opportunity to interact in an informal session to discuss mutual concerns. Regional Directors will moderate the discussions. Attendance at these sessions is limited to past and present State Board members and Board staff.

Central Region - San Clemente Room

Janeth Glenn, CPA (inactive registrant), CPM

Member, Nebraska State Board of Public Accountancy
Director of Business Services, State of Nebraska Education Service Unit 3

Great Lakes Region - Lantern Bay II

W. Michael Fritz, CPA

Member and Past Chair, Accountancy Board of Ohio
AERS Partner, Deloitte & Touche, LLP, Columbus, OH

Middle Atlantic Region - Lantern Bay III

Stephanie S. Saunders, CPA

Chair, Virginia Board of Accountancy
Shareholder, Saunders & Saunders, PC, Virginia Beach, VA

Mountain Region - Catalina Room

Benjamin C. Steele, CPA

President, Nevada State Board of Accountancy
Senior Member, Steele & Associates, LLC, Carson City, NV

Northeast Region - Lantern Bay I

John F. Dailey, Jr., CPA

Former President, New Jersey State Board of Accountancy
Retired Partner, Bowman & Company, LLP, Voorhees, NJ

Pacific Region - Capistrano Room

Edwin G. Jolicoeur, CPA

Member and Past Chair, Washington State Board of Accountancy
Retired Principal, CliftonLarsonAllen, LLP, Spokane, WA

Southeast Region - Laguna Two

Jimmy E. Burkes, CPA

Member and Past Chair, Mississippi State Board of Public Accountancy
Senior Audit Partner, Haddox Reid Burkes and Calhoun, PLLC, Jackson, MS

Maria E. Caldwell, CPA

Member and Past Chair, Florida Board of Accountancy
Audit Director, Deloitte & Touche, LLP, Miami, FL

Southwest Region - Laguna One

J. Coalter Baker, CPA

Assisting Presiding Officer, Texas State Board of Public Accountancy
Coalter Baker, CPA, Austin, TX

Breakfast for Other Participants (All Welcome)

7:00 a.m. – 8:45 a.m.

Vue Lawn

Tuesday, October 27 (continued)

Morning Plenary Session

9:00 a.m. - Noon

Richard H. Dana Ballroom

Annual Business Meeting

9:00 a.m. - 11:30 a.m.

The election of NASBA's officers and directors for 2015-2016, reports of several committees and of the President.

PRESIDING:

Walter C. Davenport, CPA

Chair, NASBA

Minutes of the 107th Annual Business Meeting

Laurie J. Tish, CPA

Secretary/Director-at-Large, NASBA

Past Chair, Washington State Board of Accountancy

National Practice Leader for Government Services, Moss Adams LLP, Seattle, WA

Awards Presentation

Gaylen R. Hansen, CPA

Chair, Awards Committee

Past Chair, NASBA

Past Chair, Colorado State Board of Accountancy

Audit Partner and Director of Quality Assurance, EKS&H, LLP, Denver, CO

Lorraine P. Sachs, CAE

Executive Vice President Emerita, NASBA

Election of 2015-2016 Officers and Directors

Carlos E. Johnson, CPA, Ed.D.

Chair, Nominating Committee

Past Chair, NASBA

Past Chair, Oklahoma Accountancy Board

Carlos E. Johnson, PLLC, Oklahoma City, OK

Report of the Administration & Finance Committee

E. Kent Smoll., CPA

Chair, Administration & Finance Committee

Treasurer/ Director-at-Large, NASBA

Past Chair, Kansas Board of Accountancy

Partner, Smoll & Banning, CPAs, LLC, Dodge City, KS

Report of the Audit Committee

Richard Isserman, CPA

Chair, Audit Committee

Past Chair, New York State Board for Public Accountancy

Retired Partner, KPMG

Report of the Bylaws Committee

Edwin G. Jolicoeur, CPA

Chair, Bylaws Committee

Report of the Center for the Public Trust

Alfonzo Alexander

President, Center for the Public Trust

Report of the Executive Directors Committee

Russ Friedewald

Chair, Executive Directors Committee

Executive Director, Illinois Board of Examiners

Report of NASBA President and Chief Executive Officer

Ken L. Bishop

First Meeting of 2015-2016 NASBA Board

11:35 a.m. - 11:55 a.m.

NASBA Board meets to elect NASBA 2015-16 Secretary and Treasurer.

Laguna Two

Attendee and Guest Luncheon (All Welcome)

11:45 a.m. - 12:45 p.m.

Vue Lawn

Move inside for inaugural presentations

12:45 - 1:00 p.m.



Tuesday, October 27 (continued)

Afternoon Plenary Session

1:00 p.m. – 4:00 p.m.

Richard H. Dana Ballroom

Inaugural Presentations (All Welcome)

1:00 – 1:45 p.m.

New NASBA leaders are installed in office and outgoing leaders are thanked for their service. Meeting participants and their guests are invited to attend.

Thanks

Walter C. Davenport, CPA

Chair 2014-2015, NASBA

Inaugural Address of 2015-2016 Chair

Donald H. Burkett, CPA

Chair 2015-2016, NASBA

Member and Past President, South Carolina Board of Accountancy

Vice President, Burkett, Burkett & Burkett, CPAs, PC, West Columbia, SC

Panel: Recognizing Changes in Education (Meeting Participants only)

2:00 p.m. – 3:30 p.m.

Changes in the way education is transmitted – and learning is accomplished – have caused CPA candidates, as well as the Boards that license them, to rethink the validity of how entry-level accounting education is to be achieved. Panelists discuss how their organizations are coming to grips with a world where local bricks and mortar institutions do not necessarily provide the optimum path for future professionals. How can a State Board know its candidates are receiving the right education to meet the requirements the public expects?

MODERATOR:

James Suh

Director, NASBA Continuous Improvement & Analytics

PANELISTS:

Bruce K. Behn, CPA, Ph.D.

President, American Accounting Association

Associate Dean for Education, University of Tennessee, Knoxville

David E. Leasure, Ph.D.

Provost, Western Governors University

Robert D. Reid, Ed.D.

Executive Vice President and Chief Accreditation Officer, AACSB

Major Current Legal Topics

3:30 p.m. – 4:00 p.m.

Noel L. Allen, Esq.

Outside Legal Counsel, NASBA

Legal Counsel, North Carolina State Board of CPA Examiners

Partner, Allen, Pinnix & Nichols, P.A., Raleigh, NC

The *N.C. State Board of Dental Examiners v. FTC* case has finally been decided by the U.S. Supreme Court and state governments are taking steps they feel are in line with the Court's judgment. NASBA Outside Legal Counsel explains: the fallout from the Dental Board case, the confusion resulting from some states changing their laws on the use of marijuana, and concerns for public protection as more professional titles appear in the marketplace.



Tuesday, October 27 (continued)

RECESS

4:00 p.m.

GALA: An Evening at Mission San Juan Capistrano

6:30 p.m. – 9:30 p.m.

Join us for an evening under the stars surrounded by gardens and fountains. There you will enjoy dinner and dancing on the grounds of the mission that was the birthplace of Orange County.

We will be boarding buses from the hotel lobby at 6:00 p.m.

.....
Wednesday, October 28

State Board Presidents' and Chairs' Breakfast Meeting

8:00 a.m. – 9:15 a.m.

Laguna One

State Board presidents and chairs are invited to meet with the members of the NASBA Board of Directors for an exchange of ideas during a continental breakfast.

MODERATOR:

Donald H. Burkett, CPA

Chair 2015-16, NASBA

Executive Directors' and State Board Staff's Breakfast Meeting

8:00 a.m. – 9:15 a.m.

Laguna Two

State Board administrative staff will have an opportunity to informally gather for breakfast as they update each other on their states' activities.

MODERATOR:

James Corley, CPA

Chair 2015-16, Executive Directors Committee

Executive Director, Arkansas State Board of Accountancy

State Society and Professional Association Representatives' Breakfast Meeting

8:00 a.m. – 9:15 a.m.

Lantern Bay I

Come have breakfast and chat with colleagues and NASBA's Director of Legislative & Governmental Affairs about the impact of the Supreme Court's Dental Board decision on the Boards of Accountancy and what the professional associations can do. Attorneys Brie Allen and Nathan Standley will participate in the discussion.

MODERATOR:

John Johnson

Director of Legislative & Governmental Affairs, NASBA

Breakfast (All Welcome)

8:00 a.m. – 9:15 a.m.

Vue Lawn

Wednesday, October 28 (continued)

Morning Plenary Session

9:30 a.m. – Noon

Richard H. Dana Ballroom

PRESIDING:

Donald H. Burkett, CPA

Chair 2015-16, NASBA

Alerts from Selected Committees

9:30 a.m. – 11:15 a.m.

This has been a year of action as well study for NASBA, with some groups completing their charges, others continuing to meet them and new groups being launched. Boards continue to benefit from increased legislative tracking and guidance provided to them by NASBA. A few of the groups report on their progress.

Uniform Accountancy Act Committee

J. Coalter Baker, CPA

Chair, NASBA Uniform Accountancy Act Committee

Bills on the Watch List

John Johnson

Director of Legislative and Governmental Affairs, NASBA

Ethics Issues

Raymond N. Johnson, CPA, Ph.D.

Chair, Ethics Committee

Director-at-Large, NASBA

Past Chair, Oregon Board of Accountancy

Retired Professor, Portland State University

New CPE Standards

John F. Dailey, Jr., CPA

Member, CPE Committee

Questions for NASBA Leaders

11:15 a.m. – 11:30 a.m.

Chair Donald H. Burkett and President and CEO Ken L. Bishop take questions from the audience.

Annual Meeting Closing Comments – Invitation to 2016 Annual Meeting

11:30 – 11:40 a.m.

Incoming NASBA Chair Burkett summarizes some of the Meeting's highlights and tells how he will carry forward these ideas during his year in office.

Donald H. Burkett, CPA

Chair 2015-16, NASBA

Raffle

11:40 a.m. – Noon

NASBA Communications Director Thomas Kenny and staff hold a fun-filled raffle of valuable prizes. Only those in the room will be eligible to win! Be sure to stick around!

NASBA 2015 Annual Meeting Adjourns

Noon



Department of Consumer Affairs
California Board of Accountancy



RESOLUTION

***WHEREAS,** Jeremy Smith has faithfully served as a member of the California Board of Accountancy Qualifications Committee from January 16, 2009 to September 11, 2015; and*

***WHEREAS,** throughout his term of service, at all times Jeremy Smith gave fully of himself and his ideas and acted forthrightly and conscientiously, always with the public interest and welfare in mind; and*

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

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

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

Jose A. Campos, CPA, President

Alicia Berhow, Secretary-Treasurer

Dated: November 19, 2015



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CBA Item I.C.
November 19, 2015

Comment Regarding the American Institute of Certified Public Accountants' Exposure Draft Regarding the Uniform CPA Examination

Presented by: Gina Sanchez, Licensing Chief

Consumer Protection Objectives

The purpose of this agenda item is to provide the California Board of Accountancy (CBA) with the opportunity to discuss the proposed changes in response to the American Institute of Certified Public Accountants (AICPA) *Maintaining the Relevance of the Uniform CPA Examination Exposure Draft (Exposure Draft) (Attachment 1)*. The Uniform Certified Public Accountant Examination (CPA Exam) provides assurance to state boards of accountancy that individuals who pass the CPA Exam possess the minimum level of technical knowledge and skills necessary to qualify for certified public accountant (CPA) licensure, safeguarding consumer protection by ensuring only qualified individuals practice public accountancy.

Action(s) Needed

The CBA will be asked to discuss and provide input in response to the AICPA's questions listed on page five of the *Exposure Draft*, in order to submit a comment letter by the end of the comment period which is November 30, 2015.

Background

The CPA Exam is a national exam developed and scored by the AICPA with significant input and assistance by the National Association of State Boards of Accountancy (NASBA) and state boards of accountancy. The purpose of the CPA Exam is to provide reasonable assurance to boards of accountancy that individuals who pass the CPA Exam possess the level of technical knowledge and skills necessary for initial licensure in order to ensure consumer protection.

The CPA Exam is a 14-hour, computer-based examination comprised of four sections:

- Auditing and Attestation (AUD)
- Business Environment and Concepts (BEC)
- Financial Accounting and Reporting (FAR)
- Regulation (REG)

The CPA Exam employs a combination of question formats, including traditional multiple choice questions and essays, as well as highly innovative simulations defined

Comment Regarding the American Institute of Certified Public Accountants' Exposure Draft Regarding the Uniform CPA Examination

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as questions that replicate workplace situations and require the application of knowledge and skills to arrive at solutions.

The AICPA conducts a practice analysis to ensure the continued relevance of the CPA Exam to the profession. To remain relevant to a dynamic profession and current with the real-world demands of accounting on newly licensed CPAs, the CPA Exam must continue to evolve. Over a 16-year period, three practice analyses have occurred, each of which has taken three years to complete. The last practice analysis was completed in 2008, which led to the launch of the updated version in 2011. The AICPA began conducting a practice analysis in 2014 that assists in the development of the next version of the CPA Exam to be announced in 2016 with an expected launch date in 2017.

The practice analysis collected input from a wide variety of stakeholders who share an interest in preserving the strength and mission of the profession including significant participation from boards of accountancy. Valuable information was collected through focus groups, interviews, meetings with CPAs from across the profession, an invitation to comment, and a survey of CPAs, as well as from the AICPA Board of Examiners and its sponsor group, sponsor advisory group, content committee and its subcommittees and others.

While the AICPA has primary responsibility for the development, scoring, and analysis of the CPA Exam through consultation with psychometricians and a content subcommittee, it is all done with consultation from all state boards of accountancy, NASBA, and other interested parties.

There is a contract in place between the NASBA, AICPA, and Prometric (NAP) for the delivery of the CPA Exam. NASBA's role is to serve as a central clearinghouse where all jurisdictions submit information on eligible candidates and from which all jurisdictions receive advisory scores and other examination data. Complementing the AICPA's role, Prometric operates a network of computer-based test centers around the world, and handles the administration of the CPA Exam, as well as site security to ensure a fair and valid testing environment.

In turn, the CBA contracts with NASBA (pursuant to Business and Professions Code (BPC) section 5082.1(b)) to ensure that the CBA is provided with an examination that is timely, valid, reliable, secure, and legally defensible. Through the contract, NASBA is charged with ensuring that the NAP contract is properly being fulfilled.

While the CBA delegates various examination functions to outside entities, it still retains the final authority in all matters related to the CPA Exam. The contract entered into with NASBA, pursuant to BPC 5082.1, guarantees that the CBA is allowed to review the form and content of the CPA Exam in order to ensure that successful candidates have the knowledge and skills necessary to perform as competent CPAs.

Comment Regarding the American Institute of Certified Public Accountants' Exposure Draft Regarding the Uniform CPA Examination

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The previously mentioned advisory scores are released by the AICPA only to NASBA, which in turn delivers them to the state boards of accountancy. The various boards, including the CBA, must accept the scores before they become official, giving the CBA final approval on test results as well. In addition, the CBA maintains a site visit protocol and a secret shopper program that allows the CBA to enter Prometric sites to observe and test security measures and to observe the delivery of the CPA Exam to candidates.

During the development of the Exposure Draft, NASBA representatives attended a CBA meeting and provided an overview of the proposed changes to the CPA Exam. The CBA also had the opportunity to participate in discussions on proposed changes via various webinars, conference calls, and presentations at the NASBA Western Regional meeting and 108th Annual meeting. Prior to the issuance of the Exposure Draft, AICPA issued an Invitation to Comment. The CBA was provided with information regarding the Invitation to Comment, which posed several questions regarding possible changes to how content is tested on the CPA Exam including length, types of questions, number and structure of test questions, testing fees, and score reporting timelines. The CBA also published an article in its UPDATE publication regarding the practice analysis process advising licensees and stakeholders regarding the undertaking.

Comments

The purpose of the *Exposure Draft* is to present the proposal for changes to the content, structure and skills tested within the next version of the CPA Exam. The *Exposure Draft* provides detailed information about the planned changes and considerations for each of the CPA Exam's four sections beginning on page 15.

Each section will have a blueprint illustrating the knowledge and skills that will be tested on the CPA Exam which are linked directly to tasks that are representative of the work of a newly licensed CPA. The blueprints will replace the current Content Specification Outline (CSO) and Skill Specification Outline (SSO) and will be more informative overall for candidates, academia, regulators, and other stakeholders.

The section commentaries should be reviewed in conjunction with the blueprint for each section of the CPA Exam. The blueprints are located in Appendix A of the *Exposure Draft*.

Outlined below are the relevant changes to the CPA Exam identified in the *Exposure Draft* that address content and structure, administration, and section commentaries and blueprints.

Increase Focus on Higher Order Skills

The most significant proposed change is to increase focus on higher order skills by adding tasked-based simulations (TBS), integrating content between all four sections and creating authentic tasks. The CPA Exam will be designed to enhance the testing of higher-order cognitive skills that include, but are not limited to, critical thinking, problem solving, analytical ability, and professional skepticism.

Comment Regarding the American Institute of Certified Public Accountants' Exposure Draft Regarding the Uniform CPA Examination

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Task-Based Simulations

A TBS is designed to test higher order skills by actively engaging the CPA candidate in completing tasks related to practice. Testing of these higher order skills requires an increase in the number of TBSs and the development and use of new TBS types on the next version of the CPA Exam. TBSs will be added to the BEC section for the first time and it is anticipated that BEC will include four to five TBSs. The AUD, FAR, and REG sections will have an increase in TBSs to eight to nine from the current six to seven.

Additionally, a new type of TBS will be introduced: Document Review Simulation (DRS). DRS tests application, analysis and/or evaluation skills. Highlighted words, phrases, sentences, or paragraphs in the DRS document may or may not be correct, requiring the candidate to select appropriate edits based on relevant source documents.

Increase Content Integration

The daily tasks and responsibilities of newly licensed CPAs require knowledge that spans the four sections of the CPA Exam. Each of the CPA Exam sections will be designed to test higher order skills by incorporating the applicable content knowledge and skills that are required in the context of the work of a newly licensed CPA. Although the tasks will be rooted in the primary content knowledge and skills of the each section, it could draw upon candidates' knowledge of the other sections. For example, in the AUD section, a task may require the basic knowledge of a concept more extensively evaluated in the FAR section.

Increase Exam Authenticity

An important goal of the CPA Exam is to create authentic tasks that align with professional practice and fairly test candidates. The CPA Exam has successfully used still images of bank statements, memorandums, and other documents that are representative of common business documents. The DRS mentioned previously increases authenticity as it represents tasks that most, if not all, newly licensed CPAs are expected to perform.

Increase Time Allocation and Adjust Scoring Weights

As a result of the increased focus on testing higher order skills, an additional hour of testing time in each of the BEC and REG sections will be added to accommodate the TBSs. A break will also be added to each section which will not count against candidates' testing time. Implementation of the proposed changes will also result in a direct cost increase of approximately \$20 for each the BEC and REG sections due to the expected increase in candidate seat time for these sections.

With these identified changes, the scoring weights of the CPA Exam were re-evaluated. Previously, multiple choice questions (MCQs) encompassed 60 percent of the scoring weight in AUD, FAR, and REG and 85 percent in BEC. It is anticipated that MCQs and TBSs will be approximately 50 percent each in the AUD, FAR, and REG sections. BEC will likely have an approximate scoring weight of 50 percent in MCQs, 35 percent in TBS, and 15 percent in the written communication.

Comment Regarding the American Institute of Certified Public Accountants' Exposure Draft Regarding the Uniform CPA Examination

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Test Administration Model

Potential changes to the test administration model include reduced blackout periods, retesting of a failed section in the same testing window, and possible increase to overall timeframe to pass all four sections of the CPA Exam. Presently, the *Exposure Draft* does not outline the specifics for these potential changes. Provided below is the current practice for each.

Extended Testing Window

A testing window consists of a three-month period of time; however, a candidate may only test during the first two months of the window. There are four testing windows in a calendar year (see the following chart).

Testing Months	Non-Testing Months
January – February	March
April – May	June
July – August	September
October – November	December

Extension of the testing window may affect CBA Regulations section 7.1, subparagraph (d) (**Attachment 2**). Potential change to the number of times an exam section could be retaken in each testing window may also require a regulatory amendment.

Section Retake Policy

Presently, candidates are not permitted to retake a failed section within the same testing window. The increase in number of retests in a given window may require a candidate to obtain more than one open authorization to test. Implementing this change may affect CBA Regulations, section 8.2, subparagraph (b) (**Attachment 3**).

Timeframe to Pass the CPA Exam

Candidates receiving a passing score, 75 or higher, on a CPA Exam section, will receive and retain credit for each section passed for an 18-month period from the test date. At the end of the 18-month period, credit for passage of a section expires and that section must be retaken and passed to reestablish credit. Once a candidate receives credit status for all four parts of the CPA Exam during an 18-month period, the candidate has passed the CPA Exam and the scores never expire. Implementing a change to the timeframe may require changes to CBA Regulations section 7.1, subparagraph (b) (**Attachment 2**).

Content of Comment Letter

With regard to the aforementioned changes to the CPA Exam, the AICPA is requesting the comment letter address specific questions identified in the *Exposure Draft*. The CBA is seeking members' input to the questions outlined below in order to develop and submit the comment letter by the end of the comment period.

Comment Regarding the American Institute of Certified Public Accountants' Exposure Draft Regarding the Uniform CPA Examination

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- I. Increased focus on testing higher order skills is the most significant change proposed for the next Exam. Should the proposed next Exam reflect an increased focus on testing higher order skills? If not, please explain.
- II. Are the analyses and related conclusions in the Next Version of the Exam section (on pages 8 to 14) appropriate and supportive of the assessment of competent, newly licensed performance? If not, please explain.
- III. Are there significant areas of content missing from the detailed blueprints that should be included? If yes, please explain.
- IV. Are there significant areas of content in the detailed blueprints that should be excluded? If yes, please explain.
- V. Do the content ranges in each section of the Exam in the summary blueprint align with the content knowledge required of newly licensed CPAs? If not, please explain.
- VI. Are the skill level ranges identified for each section of the Exam in the summary blueprint representative of the skill levels required by newly licensed CPAs? If not, please explain.
- VII. Does the detailed blueprint, including content and representative task statements, provide sufficient information for CPA candidates to understand the knowledge and skills expected of a newly licensed CPA on which they will be tested? If not, please explain.

Once AICPA receives comments and the changes to the CPA Exam are finalized, the CBA will be afforded the opportunity to review and consider which changes may be appropriate to incorporate into the CBA Regulations.

Fiscal/Economic Impact Considerations

Implementation of the proposed changes would result in a direct cost increase of approximately \$20 for each the BEC and REG sections due to the expected increase in candidate seat time for these sections.

Recommendation

Staff have no recommendation at this time. However, in conclusion of members' discussion and input addressing the specific questions identified in the *Exposure Draft*, a comment letter will be drafted for submission by the end of the comment period. The CBA may wish to delegate authority to the CBA President to approve the final letter for submission by the end of the comment period.

Attachments

1. Exposure Draft: Maintaining the Relevance of the Uniform CPA Examination
2. CBA Regulation Section 7.1
3. CBA Regulation 8.2



Exposure Draft:

Maintaining the Relevance of
the Uniform CPA Examination

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This Exposure Draft presents an informed and thoughtful proposal for the next version of the Uniform CPA Examination based on intensive research and input from the profession and other interested stakeholders. Accordingly, this Exposure Draft outlines proposed Examination changes using language that presumes those changes will be effected after review of feedback to the Exposure Draft and, ultimately, upon the AICPA Board of Examiners' approval.

The section blueprints located in Appendix A are an integral part of this Exposure Draft.

EXECUTIVE SUMMARY

Ongoing change in the business world and advancements in technology have impacted the accounting profession and affected the required knowledge, skills and professional responsibilities of newly licensed Certified Public Accountants (CPAs). Those professionals are required to perform more advanced tasks and contribute to increasingly complex projects earlier in their accounting careers. Professional content knowledge remains fundamental to protecting the public interest, but newly licensed CPAs must also possess:

- higher-order cognitive skills, including critical thinking, problem solving and analytical ability, as well as professional skepticism
- a thorough understanding of professional and ethical responsibilities
- a strong understanding of the business environment and processes
- effective communication skills

The Uniform CPA Examination (the Exam) provides reasonable assurance to boards of accountancy that individuals who pass possess the minimum level of technical knowledge and skills necessary for initial licensure. To remain relevant to a dynamic profession and current with the real-world demands of accounting on newly licensed CPAs, the Exam must continue to evolve.

In early 2014, the American Institute of Certified Public Accountants (AICPA) launched a practice analysis, a comprehensive research project, to identify the knowledge and skills required of newly licensed CPAs for the next version of the Exam.

The periodic execution of a practice analysis is necessary to ensure that the Exam supports the profession's commitment to protect the public interest, remains current, relevant, reliable and legally defensible and fulfills the needs of the boards of accountancy in carrying out their licensing responsibility.

A rigorous, broad and inclusive endeavor, the practice analysis collected input from a wide variety of stakeholders who share an interest in preserving the strength and mission of the profession – boards of accountancy, accounting firms, academia, standards setters and regulators and business and industry. Valuable information was collected through focus groups, interviews, meetings with CPAs from across the profession, an invitation to comment and a survey of CPAs, as well as from the AICPA Board of Examiners (BOE) and its sponsor group, sponsor advisory group, content committee and its subcommittees and others.

Next Version of the Exam

Overall, the research demonstrated that the profession supports the initiative to make meaningful changes to the Exam, to operationalize the testing of higher order skills and to align more closely with the types of tasks regularly performed by newly licensed CPAs. An experienced group of CPAs and psychometricians has developed blueprints, which are outlines of the content topics and skill levels that will be tested in the next version of the Exam.

Important and relevant conclusions based on the practice analysis and proposed changes to the Exam include:

- The Exam will be designed to enhance the **testing of higher-order cognitive skills** that include, but are not limited to, critical thinking, problem solving, analytical ability and professional skepticism (see page 8).
- The Exam will remain structured by the **four existing sections** – Auditing and Attestation (AUD), Business Environment and Concepts (BEC), Financial Accounting and Reporting (FAR) and Regulation (REG).
- Each section will have a **blueprint** illustrating the knowledge and skills that will be tested on the Exam which are linked directly to tasks that are representative of the work of a newly licensed CPA. The blueprints will replace the current Content Specification Outline (CSO) and Skill Specification Outline

(SSO) and will be more informative overall for candidates, academia, regulators and other stakeholders (see Appendix A).

- To test a combination of content knowledge and higher order skills, more **task-based simulations** (TBSs) are planned for the Exam.
- TBSs will be added to the **BEC section** for the first time.
- Total Exam testing time will increase from 14 to 16 hours – four sections of **four hours each**

As a result of the proposed changes, the Exam will have an even greater focus on the appropriate skill levels, given today's practice demands for newly licensed CPAs. This shift in what the Exam will test and the method of testing will keep the next version of the Exam aligned with the knowledge and skills required for initial licensure.

Exposure Draft

This Exposure Draft represents the culmination of in-depth research, critical analysis of data, best practices in test development and the collective thinking of leaders in the profession. Stakeholder review of this document is a vital step in the development of the next Exam.

The AICPA invites you to comment on the proposed approach for the next Exam and/or to identify any critical issues that may not have been addressed in this Exposure Draft. Detailed and specific feedback is appreciated and will enable the AICPA to better evaluate responses.

Feedback to this Exposure Draft will help finalize the development of the next Exam's content, structure and design. Changes for the next version of the Exam will be announced in 2016 and included on the Exam in 2017.

The content of the next version of the Exam will continue to be closely aligned with the realities of professional practice for newly licensed CPAs.

REQUEST FOR COMMENT

The AICPA values the views of all Exam stakeholders and is seeking comment to the questions listed below. The questions have been divided to address:

A – Comments/responses that will be considered for implementation in the next version of the Exam.

B – Comments/responses that will require further time to evaluate and for potential implementation at a future time.

In your response, please indicate whether the response represents the official response of a state board of accountancy, state CPA society or regulator. Otherwise, please advise whether the response is on behalf of a firm or business or represents your individual views. The AICPA will make all responses publicly available by posting to its website.

The AICPA will consider all responses received on or before November 30, 2015. Email your submission to ExposureDraft@aicpa.org.

A. Comments requested on the next version of the Exam as defined in this Exposure Draft – please answer the following questions:

- I. Increased focus on testing of higher order skills is the most significant change proposed for the next Exam. Should the proposed next Exam reflect an increased focus on testing of higher order skills? If not, please explain.
- II. Are the analyses and related conclusions in the Next Version of the Exam section (on pages 8 to 14) appropriate and supportive of the assessment of competent, newly licensed performance? If not, please explain.
- III. Are there significant areas of content missing from the detailed blueprints that should be included? If yes, please explain.
- IV. Are there significant areas of content in the detailed blueprints that should be excluded? If yes, please explain.
- V. Do the content ranges in each section of the Exam in the summary blueprint align with the content knowledge required of newly licensed CPAs? If not, please explain.
- VI. Are the skill level ranges identified for each section of the Exam in the summary blueprint representative of the skill levels required by newly licensed CPAs? If not, please explain.
- VII. Does the detailed blueprint, including content and representative task statements, provide sufficient information for CPA candidates to understand the knowledge and skills expected of a newly licensed CPA on which they will be tested? If not, please explain.

B. Comments requested on The Future of Practice Analysis section and for future Exam releases

The AICPA welcomes and encourages comments for consideration related to the views expressed in The Future of Practice Analysis section (page 23) and for future versions of the Exam, beyond what can be operationalized by 2017. Examples of potential areas that might be considered for comments include (but are not limited to) The Future of Practice Analysis section, as well as potential future changes to Exam sections, the written communication assessment model, further integration of content among Exam sections and a capstone exam section.

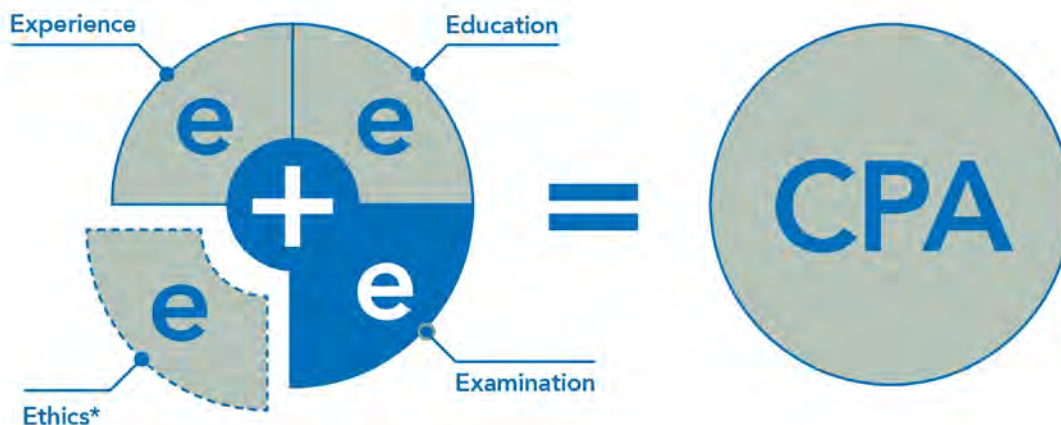
BACKGROUND AND INTRODUCTION

The Exam has a long and trusted history in the licensing of CPAs. The Uniform CPA Exam and the Advisory Grading Service were first made available by the AICPA in June 1917. Eventually, these services and the requirement to pass this Exam in order to become a licensed CPA were adopted by all states, the District of Columbia, Guam, Puerto Rico, the U.S. Virgin Islands and the Commonwealth of the Northern Mariana Islands.

The CPA Exam is a licensure exam designed to measure minimum competency and helps to establish the CPA license as evidence of professional qualification. The purpose of the Exam is to provide reasonable assurance that individuals seeking licensure have demonstrated the knowledge and skills necessary for a newly licensed CPA to protect the public interest in today's business and financial environment.

For the purpose of identifying the domain of tasks, knowledge and skills necessary to protect the public interest, a newly licensed CPA is defined as one who has fulfilled the applicable jurisdiction's educational and experience requirements and has the knowledge and skills typically possessed by a person with two years of experience.

Eligibility: 3 + 1 E's to Becoming a CPA



**Certain states require a separate ethics assessment in addition to what is tested on the CPA Exam.*

The uniform administration of the Exam has enhanced the national prestige of the CPA credential and fostered the interstate practice of accounting and auditing. The AICPA develops, maintains and scores the CPA Exam. The BOE, a senior committee of the AICPA, is responsible for the establishment of policies governing the Exam in accordance with legal and psychometric standards as they apply to licensure examinations. The BOE also has the responsibility for strategic planning and risk assessment to ensure that the Exam continues to fulfill its

mission, which is to provide reasonable assurance to boards of accountancy that candidates passing the Exam possess the technical knowledge and skills necessary for initial licensure to protect the public interest.

Pursuant to the BOE policy, the AICPA began a practice analysis to identify the demands of current practice and provide data to ensure that the Exam continues to assess the knowledge and skills necessary for initial licensure. The periodic execution of a practice analysis is required to ensure that the Exam supports the profession's commitment to protect the public interest, remains current, relevant, reliable and legally defensible, and fulfills the needs of the boards of accountancy in carrying out their licensing responsibility. See Appendix B for a more complete description of the practice analysis process.

The Exposure Draft and its appendices document the practice analysis process and methods used to define the domain of tasks, knowledge and skills necessary for a newly licensed CPA; explain the types of analyses conducted; report the results of those analyses; and describe how the results of the practice analysis were used to develop blueprints for the Exam.

The AICPA remains committed to evaluation and evolution of the Exam to ensure a rigorous standard for those entering the profession.

NEXT VERSION OF THE EXAM

The following discusses the proposed plan for the next version of the Exam based upon research and input received from the profession and aforementioned stakeholders, responses received from the invitation to comment and survey results.

Increase Focus on Higher Order Skills

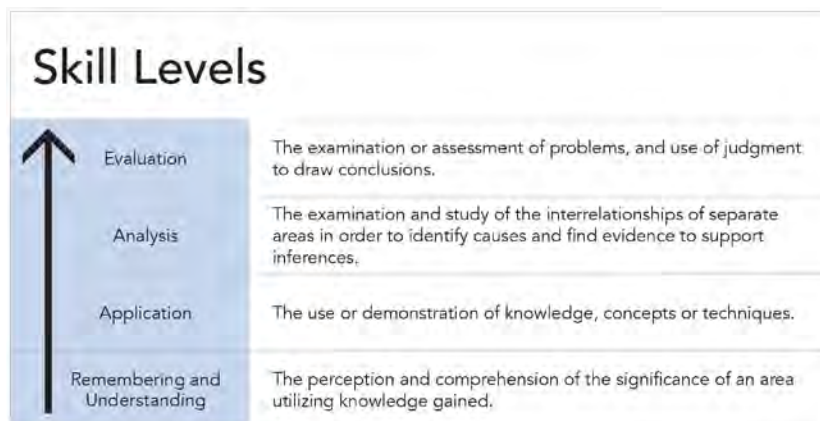
The most significant change proposed for the next version of the Exam will be an increased emphasis and focus on testing higher order skills. The need to test higher order skills was identified in the initial research for the next version of the Exam as well as in the invitation to comment. It is critically important that newly licensed CPAs are competent in recognizing issues, identifying errors, challenging assumptions and applying both professional judgment and skepticism.

Advances in technology and its ever-increasing use, as well as outsourcing of routine, non-complex tasks have impacted the daily responsibilities of newly licensed CPAs. CPAs new to the profession are now expected to perform at a more advanced level earlier in their careers. These changes in the profession demand that newly licensed CPAs engage in tasks that require both higher-order cognitive skills and increased professional skepticism and be prepared, for example, to plan and review the work of others much sooner in their careers.

To focus on and enhance the testing of higher order skills, the AICPA has adopted a skill framework based on the modified Bloom's Taxonomy of Educational Objectives. Bloom's Taxonomy classifies a continuum of skills that students can be expected to learn and demonstrate. Since its inception, the categories have been used to structure learning objectives and develop examinations. Bloom's Taxonomy was initially developed by educational psychologists in 1956 and refined in 2001 (Anderson, L, and Krathwohl, D, eds. 2001). The taxonomy is widely used in educational and licensure testing to define the level of skills to be assessed and to guide the development of test questions.

In applying this framework, approximately 700 representative tasks that a newly licensed CPA may be expected to complete were initially identified by Exam staff and reviewed with the Exam content committee and its subcommittees. The content committee and subcommittees associated each of the tasks to specific areas of content within each section of the Exam.

The representative tasks combine both the applicable content knowledge and skills required in the context of the work of a newly licensed CPA. Based on the nature of a task, one of four skill levels, derived from the modified Bloom's Taxonomy of Educational Objectives, was assigned to each of the tasks, as follows:



These tasks were included in a broad survey of newly licensed CPAs and supervisors of newly licensed CPAs, who were asked to rate the frequency and criticality of the tasks (i.e., how critical is competent performance of this task by newly licensed CPAs to their role in protecting the public interest?). The survey played a significant role in validating the content and skills that will be tested on the Exam. Based upon the survey ratings of the frequency and criticality of the tasks, subcommittees and Exam staff selected the tasks that are most critical to the newly licensed CPA's role in protecting the public interest. These tasks are an important component of the blueprint described below.

Generally, the current Exam equally assesses (i) remembering and understanding and (ii) application level skills in AUD, BEC, FAR and REG. In the next version of the Exam, there is a clear shift to test higher order skills – analysis and evaluation – as demonstrated in the table below.

AUD is the only section in the next version of the Exam in which the evaluation skill is assessed; this is consistent with the nature of the tasks identified by the content subcommittees in the surveys of newly licensed CPAs and their supervisors.

Section	Remembering and Understanding	Application	Analysis	Evaluation
AUD	30%–40%	30%–40%	15%–25%	5%–15%
BEC	15%–25%	50%–60%*	20%–30%	–
FAR	10%–20%	50%–60%	25%–35%	–
REG	25%–35%	35%–45%	25%–35%	–

*Includes written communication.

The blueprint for each of the Exam sections includes the content, skills and related representative tasks that will be tested on the Exam. The blueprint will replace the current CSO and SSO. The purpose of the blueprint is to:

- Provide assurance that the Exam is properly designed to test such knowledge, skills and tasks.
- Assist candidates in preparing for the Exam by delineating the knowledge and skills that may be tested.
- Apprise educators about the knowledge and skills candidates will need to function as newly licensed CPAs.
- Guide the development of Exam questions.

The tasks in the blueprints are representative and are not intended to be, nor should they be viewed as, an all-inclusive list of tasks that may be tested on the Exam. It also should be noted that the number of tasks associated with a particular content group or topic is not indicative of the extent such content group, topic or skill will be assessed on the Exam.

Please see the proposed Exam blueprints in Appendix A of this Exposure Draft. An excerpt of a blueprint is shown below.

AUDITING AND ATTESTATION (AUD)

Area II — Assessing Risk and Developing a Planned Response (20%–30%)

Content Group/Topic	Skill				Representative Task
	Remembering and Understanding	Application	Analysis	Evaluation	
A. PLANNING AN ENGAGEMENT					
1. Developing an overall engagement strategy	✓				Explain the purpose and significance of the overall engagement strategy for an audit or non-audit engagement.
2. Developing a detailed engagement plan		✓			Prepare a detailed engagement plan for an audit or non-audit engagement starting with the prior-year engagement plan or with a template.
		✓			Prepare supporting planning related materials (e.g., client assistance request listings, time budgets) for a detailed engagement plan starting with the prior-year engagement plan or with a template.
			✓		Develop or modify a detailed engagement plan for an audit or non-audit engagement based on planning inputs and constraints.

Maintain Exam Structure by Section

Based on feedback from the invitation to comment and various stakeholders, the current Exam structure, by section, is considered appropriate. Exam sections will continue to be AUD, BEC, FAR and REG.

Increase Task-Based Simulations

A TBS is designed to test higher order skills because it actively engages the CPA candidate in completing tasks related to practice. The preliminary practice analysis research and invitation to comment responses support the profession's view that increased testing of higher order skills (application, analysis and evaluation) is warranted. Accordingly, testing of these higher order skills requires an increase in the number of TBSs as well as development and use of new TBS types on the next version of the Exam.

TBSs will be added to BEC for the first time. As outlined in the table below, it is currently anticipated that BEC will include four to five TBSs. AUD, FAR and REG will each include eight to nine TBSs.

Section	Multiple Choice Questions		Task-Based Simulations		Written Communication	
	Current Exam	Next Exam	Current Exam	Next Exam	Current Exam	Next Exam
AUD	90	70–75	7	8–9	–	–
BEC	72	60–65	–	4–5	3	3
FAR	90	60–65	7	8–9	–	–
REG	72	70–75	6	8–9	–	–

In the current Exam, candidates typically spend 10 to 20 minutes on each TBS, generally designed to assess the application skill level. In the next Exam, in addition to the application level TBSs, and driven by the need to test higher order skills, it is expected that candidates will spend 15 to 30 minutes to complete TBSs designed to assess analysis and evaluation skills. For detail on the score weighting of item types, see the Increase Time Allocation and Adjust Scoring Weights section below.

A new type of TBS that will be introduced on the Exam is the Document Review Simulation (DRS), which tests application, analysis and/or evaluation skills. The DRS presents a realistic document as well as related source documents (exhibits) requiring review. Highlighted words, phrases, sentences or paragraphs in the DRS document may or may not be correct, requiring the candidate to select appropriate edits based on the relevant source documents.

Additionally, TBSs on the next version of the Exam will feature increased background material and data that will require candidates to determine what information is or is not relevant to the question, which reflects actual practice.

Maintain Written Communication Assessment

Written communication currently is and will continue to be tested in BEC. During the practice analysis process, the BOE and the Exam staff explored various ways to test written communication skills at a higher-order skill level and then to evaluate those abilities in a computerized scoring environment. However, today, the process of objectively evaluating a candidate's application of higher order skills (i.e., thought process) within the context of a constructed written response is cost- and time-prohibitive.

Given the above constraints, the BOE believes that writing skills and higher order skills should continue to be assessed independently. Written communications will be evaluated solely for writing ability (relevance to subject, organization, development, grammar, usage and mechanics). Writing will continue to be tested in a single section of the Exam because written communications will be assessed only for writing skills. As part of its analysis, the BOE concluded that content knowledge and testing of higher order skills (application, analysis and evaluation) should be objectively tested through multiple-choice questions and task-based simulations in all sections of the Exam.

As test scoring and the Exam continue to evolve, the BOE and the AICPA will further evaluate how best to test a candidate's thought process in a computer-graded, constructed written response.

Increase Content Integration

The daily tasks and responsibilities of newly licensed CPAs require knowledge that spans the four sections of the Exam – AUD, BEC, FAR and REG. While the BOE and the profession support the current structure of the Exam around these four sections, they also have identified the need to test higher order skills like critical thinking, problem solving, analytical ability and professional skepticism, beyond basic content knowledge, which will lead to increased content integration among the four sections of the Exam.

Each of the Exam sections will be designed to test higher order skills by incorporating the applicable content knowledge and skills that are required in the context of the work of a newly licensed CPA. Tasks that involve application, analysis and/or evaluation skills may include some content from other Exam sections, which would occur naturally in the task from a contextual perspective. These tasks will always be rooted in the primary content knowledge and skills of a particular Exam section but could draw upon a candidate's basic knowledge of general accounting, auditing, tax and business concepts – at a base level typically covered in college course work. For example, in the AUD section of the Exam, a TBS designed to evaluate inventory observation audit procedures might include some inventory valuation/obsolescence or sales cutoff considerations, even though these concepts would be evaluated more extensively in FAR.

As part of the practice analysis, and as outlined in the invitation to comment, stakeholders considered the possibility of a separate integrative section of the Exam that could have replaced the BEC section and served as a capstone section; it was hypothesized that this section would have allowed for greater testing of higher order skills and included questions that blended elements of taxation, auditing and financial accounting and reporting. While there was support for the concept of testing integrated content, there also was strong support for

maintaining the BEC section because the related knowledge is considered important to the practice of public accounting. At this time, the BOE and AICPA concluded the Exam will not include a separate integrative section and will maintain the content of the BEC section.

The BOE and Exam staff will continue to explore additional opportunities to test more robust integrated content in future versions of the Exam.

Increase Exam Authenticity

One goal in high-stakes testing is to create authentic tasks that align with professional practice and fairly test candidates. The Exam has successfully used still images of bank statements, memos and other documents that are representative of common business documents.

The DRS item mentioned above increases authenticity because it represents tasks that most, if not all, newly licensed CPAs are expected to perform. Further, TBSs designed to assess analysis and evaluation skills likely will include realistic additional documents as exhibits that candidates will need to evaluate as described above. The Exam will continue to evolve and authenticity will continue to be increased through the launch of newer item types, background item information and tasks candidates will be expected to perform.

Respondents to the invitation to comment did not perceive the need to add audio and video stimuli to the Exam because they did not currently see a benefit beyond existing text-based TBSs. The BOE and Exam staff will continue to explore the possibility of adding audio and video stimuli in future versions of the Exam.

Increase Time Allocation and Adjust Scoring Weights

The changes in the next version of the Exam are expected to require an additional hour of testing time in each of the BEC and REG sections. These additions increase the total Exam time from 14 to 16 hours – four sections of four hours each.

- AUD will not require additional time based on an analysis of current candidate performance, the amount of time spent on the section and its current and future content.
- BEC will require an additional hour to accommodate TBSs.
- FAR will not require additional time, based on an analysis of current candidate performance, the amount of time spent on the section and its current and future content.
- REG will require an additional hour given the increase in TBSs at the analysis skill level and to assure test reliability and validity.

As a result of the Exam's increased focus on testing higher order skills, a break will be added to each Exam section. The breaks will not count against candidates' testing time, as compared to the current exam, in which breaks do count against testing time. The breaks will provide the candidate with nominal time – potentially 10 to 15 minutes – to have a break, provide sufficient time to complete the Exam and ensure the psychometric reliability measurements of the Exam are maintained. The addition of breaks will not impact Exam cost to the candidate.

Multiple choice questions (MCQs) currently comprise 60 percent of the scoring weight in AUD, FAR and REG, with the balance of scoring weight attributed to TBSs. MCQs currently comprise 85 percent of the scoring weight in BEC, with the remaining 15 percent of the scoring weight attributed to written communication (constructed response). In light of the increased testing of higher order skills, there will be an increase in TBSs for the AUD, FAR and REG sections as well as the addition of TBSs to BEC. It is anticipated that the scoring weight of multiple choice questions and TBSs will be approximately 50 percent each in AUD, FAR and REG. BEC likely will have an approximate score weighting of 50 percent MCQs, 15 percent written communication and 35 percent TBSs.

Note that the foregoing time and score weighting are based on the design of the Exam as specified in this Exposure Draft. Ultimately, the Exam time and the score weighting will be finalized in connection with the announcement of the next Exam in 2016, after consideration of responses to this Exposure Draft.

Maintain Score Release Timelines

None of the currently proposed changes in the next version of the Exam will impact the existing average 20-day score release timeline on an ongoing basis. However, consistent with launches in the past, for the initial testing window of the next Exam and potentially the following two testing windows, there will be a delay in the release of scores in order to statistically validate candidate performance on the Exam. Additional information about score release timelines will be made concurrently with the announcement of the next version of the Exam.

Add Microsoft Excel® as a Tool for Candidates

Beginning in 2018, when the appropriate supporting software is available at test centers, the current generic spreadsheet (which candidates can use as a resource to complete calculations) will be replaced by Excel on the Exam. Excel will be added as a tool for candidates to use during the Exam, but candidates will not be tested for their ability to use Excel.

Microsoft Excel is the most widely-used spreadsheet application in the accounting profession today. The input gathered from stakeholders through the practice analysis indicates a collective recommendation to utilize Excel on the Exam. Although the BOE noted that this change will necessitate a cost increase, they acknowledge the value of the profession's input and the benefit to Exam takers because of the prevalence of Excel use among newly licensed CPAs. The BOE and AICPA will continue to explore the benefits and feasibility of further integration of Excel, or perhaps other spreadsheet technologies, into the Exam beyond 2018.

Exam Cost

Implementation of the next version of the Exam in 2017 as contemplated in this Exposure Draft will result in a direct cost increase of approximately \$20 for each of the BEC and REG sections; the higher cost is a result of the expected increase from three hours to four hours in candidate seat time for these sections.

The National Association of State Boards of Accountancy (NASBA), the AICPA and Prometric collaboratively deliver the Exam under a tri-party agreement. Pursuant to this agreement, the AICPA is expected to break even over its term and seeks to announce to boards of accountancy any price increases two years prior to their effective date. The AICPA is currently evaluating its cost projections, in general and in light of the development of the next version of the Exam including the addition of Excel, which will necessitate a cost increase that it expects to announce in the first quarter of 2016. Such a cost increase is expected to be modest and in line with the scope and value of the proposed changes to the Exam.

Test Administration Model

Respondents to the invitation to comment shared views about potential changes to the test administration model, those policies and practices surrounding the administration of the Exam. These potential changes included reduced blackout periods, retesting of a failed section in the same testing window and possible increases to the overall timeframe to pass all sections of the Exam. Test administration model changes are complex because they involve software system changes, concurrence of Exam jurisdictions and changes in regulations and/or legislation in certain jurisdictions.

Based on information gathered through the practice analysis, the complexity of implementation and the required approval processes, NASBA, the boards of accountancy and the AICPA are exploring changes to the test

administration model from a broader perspective. Ultimately, the boards of accountancy must approve all test administration model changes.

A TBS is designed to test higher order skills by actively engaging the CPA candidate in completing tasks required of a newly licensed CPA.

SECTION COMMENTARY

This portion of the Exposure Draft provides detailed information about the planned changes and considerations for each of the Exam's four sections. Changes discussed below reflect the changing knowledge and skills required of newly licensed CPAs as identified in part by the broad-based surveys of both supervisors of newly licensed CPAs and newly licensed CPAs.

As noted above, the blueprints will replace the existing Exam CSO and SSO. The blueprints will retain the structure by area, group and topic from the CSO. For clarity, area and group names referenced in the section commentaries are capitalized, as in the following example: Enterprise Risk Management. Topic names are italicized, as in the following example: *Impact of marketing practices on performance*.

These section commentaries should be reviewed in conjunction with the blueprint for each section of the Exam, which is located in Appendix A.

Auditing and Attestation (AUD) section

The Auditing and Attestation (AUD) section tests knowledge and skills that a newly licensed CPA must demonstrate when performing audits of issuers, nonissuers, governmental entities, not-for-profit entities and employee benefit plans. Newly licensed CPAs are required to demonstrate knowledge of professional standards when performing other types of engagements, such as standards for performing accounting and review services engagements and standards for attestation and assurance engagements. Newly licensed CPAs are also required to demonstrate knowledge and application of other professional responsibilities, including ethics and independence.

Content

The following table summarizes the content areas and allocation of content to be tested in the AUD section, both in the current Exam and in the next version of the Exam.

Current Exam		Next Version	
I. Engagement Acceptance and Understanding the Assignment	12% - 16%	I. Ethics, Professional Responsibilities and General Principles	15% - 25%
II. Understanding the Entity and Its Environment (including Internal Control)	16% - 20%	II. Assessing Risk and Developing a Planned Response	20% - 30%
III. Performing Audit Procedures and Evaluating Evidence	16% - 20%	III. Performing Further Procedures and Obtaining Evidence	30% - 40%
IV. Evaluating Audit Findings, Communications and Reporting	16% - 20%	IV. Forming Conclusions and Reporting	15% - 25%
V. Accounting and Review Service Engagements	12% - 16%		
VI. Professional Responsibilities	16% - 20%		

Evaluating the AUD content involved the consideration of the organization of the clarified U.S. Auditing Standards and their convergence with International Standards on Auditing; both use the same organization and

numbering scheme. Based on significant input from the AUD subcommittee, and because auditing is arguably the most important skill and knowledge domain in the AUD section of the Exam, it was determined that the organization of the clarified U.S. Auditing Standards was an appropriate foundation for organizing the proposed AUD blueprint.

To ensure that this organization was appropriate for other types of engagements, the Attestation Standards, Accounting and Review Services Standards, PCAOB Auditing Standards and Interim Standards, as well as Government Auditing Standards were reviewed and will be incorporated into the blueprint as follows:

- Changes will be made to the organization of the blueprint to accommodate these standards into a single organizational outline (e.g., Area IV, which encompasses reporting, includes separate topics for reports based on Attestation and Accounting and Review Services engagements).
- Accounting and Review Services will no longer be in its own area but will be integrated with other types of engagements because the required skills are similar (or are a subset).

Similarly, the role of ethics and professional responsibilities was also considered and determined to be critical to the audit process. Ethics, especially independence, is most often considered before an engagement is even accepted; therefore, ethics should be integrated at the beginning of the engagement process (Area I), rather than standing alone at the end of the AUD content.

Topics that were deemed not significant for newly licensed CPAs and therefore eliminated in the blueprint are:

- *Audits performed in accordance with International Standards on Auditing (ISAs) or auditing standards of another country: determine if differences exist and whether additional audit procedures are required.*
- *Consideration of omitted procedures after the report date.*

Skill Levels

As more fully set forth in the AUD blueprint, skill levels will be assessed at approximately the following weights:

Skill	Weight
Evaluation	5% - 15%
Analysis	15% - 25%
Application	30% - 40%
Remembering and Understanding	30% - 40%

Remembering and understanding and application skills are mainly concentrated in Area I and Area IV. These two areas contain much of the general audit knowledge that is required for newly licensed CPAs and, in the case of Area IV, many of the tasks that newly licensed CPAs are performing are driven by templates (i.e., reporting) and therefore do not require the use of higher order skills.

Analysis and evaluation skills are primarily tested in Area II and Area III. These two areas contain the primary day-to-day audit tasks that newly licensed CPAs perform and therefore require a higher level of skill to analyze and form conclusions about work assignments.

Business Environment and Concepts (BEC) section

The Business Environment and Concepts section (BEC) tests general business concepts and associated skills required of newly licensed CPAs in performing audits, attest engagements, financial reporting and tax services. The results from the invitation to comment indicated strong support for maintaining the BEC content because the related knowledge and skills are considered important to the practice of public accounting. The skill level of BEC has been elevated, and, consequently, this section will have TBSs for the first time, which is an important change.

Content

The following table summarizes the content areas and allocation of content to be tested, both in the current Exam and in the next version of the Exam.

<i>Current Exam</i>		<i>Next Version</i>	
I. Corporate Governance	16% - 20%	I. Corporate Governance	17% - 27%
II. Economic Concepts and Analysis	16% - 20%	II. Economic Concepts and Analysis	17% - 27%
III. Financial Management	19% - 23%	III. Financial Management	11% - 21%
IV. Information Systems and Communications	15% - 19%	IV. Information Technology	15% - 25%
V. Strategic Planning	10% - 14%	V. Operations Management	15% - 25%
VI. Operations Management	12% - 16%		

BEC content will remain largely the same in the next version of the Exam except as noted below:

- There was significant consolidation/restructuring of the current CSO, in particular, in Area I, Corporate Governance, Area III, Financial Management, and Area IV, Information Technology. These changes did not result in elimination of content, but a reorganization of existing content within the BEC blueprint. The structure, together with the addition of task statements, will sharpen the focus of what BEC will test.
- The proposed BEC blueprint will now have five areas instead of six. Current CSO Area V, Strategic Planning, is no longer a separate area in the proposed BEC blueprint. Strategic Planning content will move to other areas/groups of BEC blueprint to better align with the tasks required of a newly licensed CPA. Strategic Planning content that will move is that which is relevant to the understanding of Enterprise Risk Management (in Area I), Economics (Area II), Financial Management (Area III) or Operations Management (proposed Area V).
- The following content was eliminated from the BEC section:
 - The group Financial Transaction Processes and Controls in current Area III, Financial Management, because such content was focused on control testing, which is covered in the Audit section of the exam.
 - The topic *Impact of marketing practices on performance* in current Area VI, Operations Management, Group A, because the topic was not considered significant for newly licensed CPAs.
 - The group Project Management in current Area VI, Operations Management, because the topic was not considered significant for newly licensed CPAs.

Skill Levels

As more fully set forth in the BEC blueprint, skill levels will be assessed at approximately the following weights:

Skill	Weight
Evaluation	-
Analysis	20% - 30%
Application (includes writing assessment)	50% - 60%
Remembering and Understanding	15% - 25%

Because the daily activities and core job requirements of newly licensed CPAs today involve higher order skills, some content in the proposed BEC blueprint, Area II (Economic Concepts and Analysis), Area III (Financial Management) and Area V (Operations Management) will be tested at the analysis skill level.

Some of the content in the proposed BEC blueprint, Area I (Corporate Governance) and Area IV (Information Technology), which has been deemed as more of a general knowledge requirement for newly licensed CPAs, will now be tested at the application skill level.

Written communication skills will continue to be tested in the BEC section of the Exam as described. Written communication skills represent 10 percent to 20 percent of BEC within the application skill level above.

Financial Accounting and Reporting (FAR) section

The Financial Accounting and Reporting (FAR) section tests the knowledge and skills that a newly licensed CPA must demonstrate in the financial accounting and reporting frameworks (including special purpose frameworks) used by business entities, not-for-profit entities and state and local government entities. The financial accounting and reporting frameworks that are eligible for assessment within the FAR section of the Exam include the standards and/or regulations issued by the Financial Accounting Standards Board, the U.S. Securities and Exchange Commission, the Governmental Accounting Standards Board and the International Accounting Standards Board.

Content

The following table summarizes the content areas and allocation of content to be tested, both in the current Exam and in the next version of the Exam.

Current Exam		Next Version	
I. Conceptual Framework, Standards, Standard Setting and Presentation of Financial Statements	17% - 23%	I. Conceptual Framework and Financial Reporting	25% - 35%
II. Financial Statement Accounts: Recognition, Measurement, Valuation, Calculation, Presentation and Disclosures	27% - 33%	II. Select Financial Statement Accounts	30% - 40%
III. Specific Transactions, Events and Disclosures: Recognition, Measurement, Valuation, Calculation, Presentation and Disclosures	27% - 33%	III. Select Transactions	20% - 30%
IV. Governmental Accounting and Reporting	8% - 12%	IV. State and Local Governments	5% - 15%
V. Not-for-Profit (Nongovernmental) Accounting and Reporting	8% - 12%		

There are two major changes proposed that affect the organization and nature of content included in the FAR section:

- Reduce the number of areas from five to four and assess the financial accounting and reporting framework for not-for-profit entities throughout Areas I, II and III. The proposed change is based on the fact that the not-for-profit financial accounting and reporting framework is an accrual-based framework with many similarities to the business entity financial accounting and reporting framework. To the extent that significant differences exist between the frameworks, the FAR blueprint includes separate not-for-profit groups, topics and task statements throughout Areas I, II and III.
- Limit the assessment of International Financial Reporting Standards (IFRS) by testing only the differences between IFRS and U.S. GAAP rather than testing IFRS in its entirety as a standalone financial accounting and reporting framework. This proposed change addresses a finding in the practice analysis suggesting there has been a decrease in the level of engagement with IFRS for newly licensed CPAs. The proposed blueprint limits the assessment of differences between IFRS and U.S. GAAP to one Group within Area III.

The FAR blueprint includes other proposed changes to the current CSO, as follows:

- FAR will now exclude the following groups and topics:
 - Area I: Process by Which Accounting Standards are Set and Roles of Accounting Standard-Setting Bodies, *Personal financial statements*, *Liquidation basis financial statements*.
 - Area II: *Joint ventures*, *Investment property*, *Debt with conversion features and other options*, *Deferred compensation arrangements*, *Nonretirement postemployment benefits*.
 - Area III: Asset Retirement and Environmental Obligations, and Transfers and Servicing of Financial Assets and Derecognition. Content about related party transactions, which is addressed in the AUD section of the Exam, will also be removed from the FAR section.
- The following groups and topics in the current CSO will be combined or included in groups and topics in the proposed blueprint as indicated:
 - The group Distinguishing Liabilities from Equity in Area III of the current CSO and the topics *Troubled debt restructurings by debtors* and *Debt modifications and extinguishments* from Area II of the current CSO will be included in individual task statements in the topic *Notes and bonds payable* in Area II of the proposed blueprint.
 - The groups Segment Reporting and Earnings Per Share in Area III of the current CSO and the group SEC Reporting Requirements in Area I of the current CSO will be included in a single group titled Public Company Reporting Topics in Area I of the proposed blueprint.
 - The group Impairment in Area III of the current CSO will be included in individual task statements throughout the groups and topics in Areas I, II, and III of the proposed blueprint.
 - The group Nonmonetary Transactions in Area III of the current CSO will be included in a task statement in the group Property, Plant and Equipment in Area II of the proposed blueprint.
 - The group Deferred Revenue in Area II of the current CSO will be included in the task statements in the group Revenue Recognition in Area II of the proposed blueprint.
 - The group Costs and Expenses in Area II of the current CSO will be included in the task statements in the group Payables and Accrued Liabilities in Area II of the proposed blueprint.
 - The group Interim Financial Reporting in Area III of the current CSO will be included in the financial reporting task statements throughout Area I of the proposed blueprint.
 - The group Risks and Uncertainties in Area III of the current CSO will be included in the task statements in the topic *Notes to financial statements* in Area I of the proposed blueprint.

Skill Levels

As more fully set forth in the FAR blueprint, skill levels will be assessed at approximately the following weights:

Skill	Weight
Evaluation	-
Analysis	25% - 35%
Application	50% - 60%
Remembering and Understanding	10% - 20%

The FAR section of the Exam is being adapted to address the need to assess higher order skills, which is reflected in an increased emphasis on application and analysis tasks. For example, the Trade Receivables content will move away from recalling the definition of receivables-related terminology and towards completing tasks such as reconciling the trade receivables sub-ledger to the general ledger.

Areas I and II of the proposed blueprint will have the highest concentration of analysis content, followed by Area III. Area IV will have the highest concentration of remembering and understanding content.

Regulation (REG) section

The Regulation (REG) section tests knowledge and skills that a newly-licensed CPA must demonstrate with respect to federal taxation, ethics and professional responsibilities related to tax practice, and business law.

Content

The following table summarizes the content areas and allocation of content to be tested, both in the current Exam and in the next version of the Exam.

Current Exam		Next Version	
I. Ethics, Professional and Legal Responsibilities	15% - 19%	I. Ethics, Professional Responsibilities and Federal Tax Procedures	10% - 20%
II. Business Law	17% - 21%	II. Business Law	5% - 15%
III. Federal Tax Process, Procedures, Accounting and Planning	11% - 15%	III. Federal Taxation of Property Transactions	15% - 25%
IV. Federal Taxation of Property Transactions	12% - 16%	IV. Federal Taxation of Individuals	15% - 25%
V. Federal Taxation of Individuals	13% - 19%	V. Federal Taxation of Entities	30% - 40%
VI. Federal Taxation of Entities	18% - 24%		

As part of the practice analysis, both the content of the REG section and the skill levels at which this content is tested were reviewed. As a result, no new content areas were identified. However, there will be some revisions to existing content:

- Area I, Ethics, Professional Responsibilities and Federal Tax Procedures, will remain relatively unchanged in terms of the content percentage allocation. However, some content will be eliminated.
 - The topic *AICPA Statements on Standards for Tax Services* will be removed because the underlying concepts generally will be covered under other topics within Area I.
 - The group Licensing and Disciplinary Systems and the topic *Federal Statutory Liability* will be eliminated because the content was deemed not significant for newly licensed CPAs.
- Area II, Business Law will be reorganized, with some topics eliminated to increase the focus of this area on key legal concepts considered significant for newly licensed CPAs. Additionally, the content percentage allocated to Area II will be reduced.
 - The topic *Formation and Termination* under group Agency will be eliminated.
 - The topic *Third Party Assignments* under group Contracts will be eliminated.
 - The group Uniform Commercial Code will be eliminated; however, the topic *Secured Transactions*, formerly in that group, will move to the group Debtor-Creditor Relationships.
 - The topic and its related content, *Other federal laws and regulations (antitrust, copyright, patents, money laundering, labor, employment and ERISA)* will be eliminated. It will be replaced with the topic *Other federal laws and regulations (e.g., employment tax, Affordable Care Act and worker classification)*. It should be noted that the AUD and FAR sections of the Exam include coverage of Department of Labor ethics and independence, ERISA and pension plan financial statements.
 - The topics under the group Business Structure (Selection of a Business Entity) – *Advantages, disadvantages, implications and constraints* and *Financial structure, capitalization, profit and loss allocation, and distributions* – will be included in proposed Area V, Federal Taxation of Entities.

- Area III, Federal Tax Process, Procedures, Accounting and Planning will be eliminated to diminish redundancy. The number of areas will be reduced from six to five. Content will be distributed among the remaining areas.
 - The group Federal Tax Legislative Process will be eliminated because the content was deemed not significant for newly licensed CPAs.
 - All of the topics under the group Federal Tax Procedures will be relocated to Area I, other than *Due Dates and Related Extensions of Time* and *Statute of Limitations*, which will be eliminated, given the focus on testing higher order skills and because the information can easily be researched.
 - The groups Accounting Periods, Tax Return Elections, and Tax Planning will be included in either proposed Area IV, Federal Taxation of Individuals, or proposed Area V, Federal Taxation of Entities, as applicable.
 - All of the topics under group Accounting Methods will be included in proposed Areas IV or V, as applicable, except for the topic *Installment Sales* which will be relocated to proposed Area III, Federal Taxation of Property Transactions.
 - The group Impact of Multijurisdictional Tax Issues on Federal Taxation will be relocated to proposed Area V.
 - The topics *Authoritative Hierarchy* and *Communications with or on behalf of Clients* will be moved to Area I.
- Proposed Area III, Federal Taxation of Property Transactions, will contain the same content as the current Area IV but will be reorganized into three groups: Acquisition and Disposition of Assets, Cost Recovery (Depreciation, Depletion and Amortization) and Estate and Gift Taxation. The percentage allocated to proposed Area III will increase slightly.
- Proposed Area IV, Federal Taxation of Individuals (including tax preparation and planning strategies) will contain the same content as current Area V. The percentage allocated to proposed Area IV will increase slightly.
- Proposed Area V, Federal Taxation of Entities (including tax preparation and planning strategies) will contain the same content as current Area VI, except for the elimination of the topic *Earnings and Profits* under the group C Corporations, which was considered not significant for newly licensed CPAs. The remaining content will be reorganized. The content percentage allocated to proposed Area V will increase to absorb the addition of content from the other areas.

Skill Levels

As more fully set forth in the REG blueprint, skill levels will be assessed at approximately the following weights:

Skill	Weight
Evaluation	-
Analysis	25% - 35%
Application	35% - 45%
Remembering and Understanding	25% - 35%

Because Areas I and II were deemed to encompass general knowledge requirements for newly licensed CPAs, these areas will be tested at the remembering and understanding and application levels. In contrast, Areas III, IV and V include more of the daily activities of a newly licensed CPA and were deemed “critical” per the survey results. Therefore, these areas will be tested primarily at the application and analysis skill levels.

THE FUTURE OF PRACTICE ANALYSIS

The periodic execution of a practice analysis is necessary to ensure that the Exam supports the profession's commitment to protect the public interest, remains current, relevant, reliable and legally defensible and fulfills the needs of the boards of accountancy in carrying out their licensing responsibility.

BOE policies require that a practice analysis be conducted any time changes in the profession are significant enough to warrant an update either to a single Exam section or the Exam as a whole. However, at a minimum, BOE policy requires a practice analysis be completed no less than every seven years.

Previous practice analyses were undertaken in 2001 and 2008, which led to updated versions of the Exam launched in 2004 and 2011, respectively. The current practice analysis, which led to this Exposure Draft, began in 2014 with the launch of the next version of the Exam expected in 2017. Thus over a 16 year period, three practice analyses have occurred, each of which has taken three years to complete.

In addition to the practice analysis process, the Exam staff regularly reviews content for technical accuracy, to add content for accounting, auditing and tax law changes in accordance with [Exam Policy](#) and to eliminate obsolete content. Changes recommended in those updates go through a regular process of review and approval by Exam staff, the appropriate Exam section subcommittee and the content committee.

The Exam staff annually reviews Section CSOs (to be known as blueprints going forward) with the relevant subcommittee, to establish whether there have been significant changes in standards and/or practice that would require change to the Sections' CSOs, which are then approved by the content committee and BOE. Ultimately, the goal is to ensure that the Exam continues to reflect current practice in assessing the knowledge and skills required for competent newly licensed performance.

The accounting profession is dynamic, and the required skills and abilities of CPAs need to evolve to keep pace with the increasing rate of change in the marketplace. Likewise, the Exam must continue to evolve in step with, not in reaction to, that change. The AICPA anticipates the need to amend the process for evaluating and implementing future changes to the Exam to remain responsive amid rapid change in the profession.

As it explores ways to do this, the AICPA understands and acknowledges that ongoing dialogue with the profession and regulators is critical to identifying and understanding changes in the profession and the related impact on content and skills that should be tested on the Exam. Channels of communication that have been expanded with boards of accountancy, state societies, employers and regulators will continue to be strengthened going forward.

The Exam staff expects to be able to update the Exam more frequently with variations and enhancements to the types of questions asked and the skills assessed, within the current blueprint. Candidates and other stakeholders will be informed of these changes with sufficient notice so that candidates can be adequately prepared, the Exam remains fair and candidate confusion is minimized. The Exam staff will continue to manage these updates under the oversight of the BOE and its committees and subcommittees.

Exam staff will continue to monitor and remain engaged with the profession to identify opportunities to evolve the Exam as change occurs. If additional skill levels must be assessed, or other substantive changes are required that will significantly change blueprints, scoring weights, etc., a practice analysis will be initiated. Such a practice analysis would need to be faster-to-market, more streamlined and consistent with BOE due process, involving rigorous constituent input and review and public comment. The Exam staff will continue to manage these updates under the oversight of the BOE and its committees and subcommittees. The AICPA seeks stakeholder input regarding this broad view of the future of Exam changes and practice analysis.

APPENDIXES

Section Blueprints

The blueprint for each of the Exam sections includes the content, skills and related representative tasks that will be tested on the Exam. The blueprint will replace the current CSO and SSO. The purpose of the blueprint is to:

- Provide assurance that the Exam is properly designed to test such knowledge, skills and tasks.
- Assist candidates in preparing for the Exam by delineating the knowledge and skills that may be tested.
- Apprise educators about the knowledge and skills candidates will need to function as newly licensed CPAs.
- Guide the development of Exam questions.

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The tasks in the blueprints are representative and are not intended to be, nor should they be viewed as, an all-inclusive list of tasks that may be tested on the Exam. It also should be noted that the number of tasks associated with a particular content group or topic is not indicative of the extent such content group, topic or skill will be assessed on the Exam.

AUDITING AND ATTESTATION (AUD)

Summary Blueprint

Content Area Allocation	Weight
I. Ethics, Professional Responsibilities, and General Principles	15%–25%
II. Assessing Risk and Developing a Planned Response	20%–30%
III. Performing Further Procedures and Obtaining Evidence	30%–40%
IV. Forming Conclusions and Reporting	15%–25%

Skill Allocation	Weight
Evaluation	5%–15%
Analysis	15%–25%
Application	30%–40%
Remembering and Understanding	30%–40%

AUDITING AND ATTESTATION (AUD)

Area I — Ethics, Professional Responsibilities, and General Principles (15%–25%)

Content Group/Topic	Skill				Representative Task
	Remembering and Understanding	Application	Analysis	Evaluation	
A. OVERALL OBJECTIVES					
1. Nature and scope: audit engagements	✓				Identify the nature, scope, and objectives of the different types of audit engagements, including issuer, nonissuer and governmental audits.
2. Nature and scope: non-audit engagements	✓				Identify the nature, scope, and objectives of the different types of non-audit engagements, including attest engagements and accounting and review services engagements (i.e., preparations, compilations and reviews).
B. ETHICS AND INDEPENDENCE					
1. AICPA Code of Professional Conduct	✓				Understand the principles, rules, and interpretations included in the AICPA Code of Professional Conduct.
	✓				Recognize situations that present threats to compliance with the AICPA Code of Professional Conduct, including threats to independence.
		✓			Apply the principles, rules, and interpretations included in the AICPA Code of Professional Conduct to given situations.
		✓			Apply the Conceptual Framework for Members in Public Practice included in the AICPA Code of Professional Conduct to situations that could present threats to compliance with the rules included in the Code.
		✓			Apply the Conceptual Framework for Members in Business included in the AICPA Code of Professional Conduct to situations that could present threats to compliance with the rules included in the Code.
		✓			Apply the Conceptual Framework for Independence included in the AICPA Code of Professional Conduct to situations that could present threats to compliance with the rules included in the Code.

AUDITING AND ATTESTATION (AUD)

Area I — Ethics, Professional Responsibilities, and General Principles (15%–25%) Continued

Content Group/Topic	Skill				Representative Task
	Remembering and Understanding	Application	Analysis	Evaluation	
B. ETHICS AND INDEPENDENCE, continued					
2. Requirements of the Securities and Exchange Commission and Public Company Accounting Oversight Board	✓				Understand the ethical requirements of the Securities and Exchange Commission and the Public Company Accounting Oversight Board.
	✓				Recognize situations that present threats to compliance with the ethical requirements of the Securities and Exchange Commission and the Public Company Accounting Oversight Board.
		✓			Apply the ethical requirements and independence rules of the Securities and Exchange Commission and the Public Company Accounting Oversight Board to situations that could present threats to compliance during an audit of an issuer.
3. Requirements of the Government Accountability Office and the Department of Labor	✓				Recognize situations that present threats to compliance with the ethical requirements of the Government Accountability Office.
	✓				Recognize situations that present threats to compliance with the ethical requirements of the Department of Labor.
		✓			Apply the ethical requirements and independence rules of the Government Accountability Office to situations that could present threats to compliance during an audit of a government entity.
		✓			Apply the independence rules of the Department of Labor to situations that could present threats to compliance during an audit of employee benefit plans.

AUDITING AND ATTESTATION (AUD)

Area I — Ethics, Professional Responsibilities, and General Principles (15%–25%) Continued

Content Group/Topic	Skill				Representative Task
	Remembering and Understanding	Application	Analysis	Evaluation	
C. TERMS OF ENGAGEMENT					
1. Preconditions for an engagement	✓				Identify the preconditions needed for accepting or continuing an audit or non-audit engagement.
		✓			Perform procedures to determine whether the preconditions needed for accepting or continuing an audit or non-audit engagement are present.
		✓			Perform procedures to determine whether the financial reporting framework to be applied to an entity's financial statements is acceptable.
		✓			Perform procedures to obtain the agreement of management that it acknowledges and understands its responsibilities for an audit or non-audit engagement.
2. Terms of engagement and engagement letter	✓				Identify the factors affecting the acceptance or continuance of an audit or non-audit engagement.
	✓				Identify the factors to consider when management requests a change in the type of engagement (e.g., from an audit to a review).
		✓			Perform procedures to confirm that a common understanding of the terms of an engagement exist with management and those charged with governance.
		✓			Document the terms of an audit or non-audit engagement in a written engagement letter or other suitable form of written agreement.
D. REQUIREMENTS FOR ENGAGEMENT DOCUMENTATION					
	✓				Identify the elements that comprise sufficient appropriate documentation for an audit or non-audit engagement.
	✓				Identify the requirements for the assembly and retention of documentation for an audit or non-audit engagement.

AUDITING AND ATTESTATION (AUD)

Area I — Ethics, Professional Responsibilities, and General Principles (15%–25%) Continued

Content Group/Topic	Skill				Representative Task
	Remembering and Understanding	Application	Analysis	Evaluation	
D. REQUIREMENTS FOR ENGAGEMENT DOCUMENTATION, continued					
		✓			Prepare documentation that is sufficient to enable an experienced auditor having no previous connection with an audit engagement to understand the nature, timing, extent, and results of procedures performed, and the significant findings and conclusions reached.
		✓			Prepare documentation that is sufficient to enable an accountant having no previous connection with a non-audit engagement to understand the nature, timing, extent, and results of procedures performed, and the significant findings and conclusions reached.
E. COMMUNICATION WITH MANAGEMENT AND THOSE CHARGED WITH GOVERNANCE					
1. Planned scope and timing of an engagement	✓				Identify the matters related to the planned scope and timing of an audit or non-audit engagement that should be communicated to management and those charged with governance.
		✓			Prepare presentation materials and supporting schedules for use in communicating the planned scope and timing of an audit or non-audit engagement to management and those charged with governance.
2. Internal control related matters	✓				Identify the matters related to deficiencies and material weaknesses in internal control that should be communicated to those charged with governance and management for an audit or non-audit engagement, and the timing of such communications.
		✓			Prepare written communication materials for use in communicating identified internal control deficiencies and material weaknesses for an audit or non-audit engagement to those charged with governance and management.
3. All other matters	✓				Identify matters, other than those related to the planned scope and timing or deficiencies, and material weaknesses in internal control that should be communicated to management and those charged with governance for an audit or non-audit engagement.

AUDITING AND ATTESTATION (AUD)

Area I — Ethics, Professional Responsibilities, and General Principles (15%–25%) Continued

Content Group/Topic	Skill				Representative Task
	Remembering and Understanding	Application	Analysis	Evaluation	
F. COMMUNICATIONS WITH COMPONENT AUDITORS AND PARTIES OTHER THAN MANAGEMENT AND THOSE CHARGED WITH GOVERNANCE					
	✓				Identify matters that should be communicated to component auditors in a group audit engagement.
	✓				Identify matters that should be communicated to parties other than management and those charged with governance (e.g., communications required by law or regulation) for an audit or non-audit engagement.
G. A FIRM'S SYSTEM OF QUALITY CONTROL, INCLUDING QUALITY CONTROL AT THE ENGAGEMENT LEVEL					
	✓				Recognize a CPA firm's responsibilities for its system of quality control for its accounting and auditing practice.
	✓				Recognize a CPA's responsibility for quality control procedures on an audit or non-audit engagement.

AUDITING AND ATTESTATION (AUD)

Area II — Assessing Risk and Developing a Planned Response (20%–30%)

Content Group/Topic	Skill				Representative Task
	Remembering and Understanding	Application	Analysis	Evaluation	
A. PLANNING AN ENGAGEMENT					
1. Developing an overall engagement strategy	✓				Explain the purpose and significance of the overall engagement strategy for an audit or non-audit engagement.
2. Developing a detailed engagement plan		✓			Prepare a detailed engagement plan for an audit or non-audit engagement starting with the prior-year engagement plan or with a template.
		✓			Prepare supporting planning related materials (e.g., client assistance request listings, time budgets) for a detailed engagement plan starting with the prior-year engagement plan or with a template.
			✓		Develop or modify a detailed engagement plan for an audit or non-audit engagement based on planning inputs and constraints.
B. UNDERSTANDING AN ENTITY AND ITS ENVIRONMENT					
1. External factors, including the applicable financial reporting framework		✓			Identify and document the relevant industry, regulatory, and other external factors that impact an entity or the inherent risk of material misstatement, including the applicable financial reporting framework.
		✓			Document the procedures that were performed to obtain an understanding of the relevant industry, regulatory, and other external factors that impact an entity and/or the inherent risk of material misstatement, including the applicable financial reporting framework.
2. Internal factors, including nature of the entity, ownership and governance structures and risk strategy		✓			Identify and document the relevant factors that define the nature of an entity, including the impact on the risk of material misstatement (e.g., its operations, ownership and governance structure, investment and financing plans, selection of accounting policies, and objectives and strategies).
		✓			Document the procedures that were performed to obtain an understanding of the relevant factors that define the nature of an entity, including the impact on the risk of material misstatement (e.g., its operations, ownership and governance structure, investment and financing plans, selection of accounting policies, and objectives and strategies).

AUDITING AND ATTESTATION (AUD)

Area II — Assessing Risk and Developing a Planned Response (20%–30%) Continued

Content Group/Topic	Skill				Representative Task
	Remembering and Understanding	Application	Analysis	Evaluation	
C. UNDERSTANDING AN ENTITY'S INTERNAL CONTROL					
1. Control environment and entity-level controls		✓			Identify and document the significant components of an entity's control environment, including its entity-level controls.
		✓			Perform and document the procedures to obtain an understanding of the significant components of an entity's control environment, including its entity-level controls.
2. Flow of transactions and design of internal control		✓			Perform a walkthrough and document the flow of transactions relevant to an audit of an entity's financial statements or to an examination of an entity's internal controls.
		✓			Perform tests of the design and implementation of internal controls relevant to an audit of an entity's financial statements or to an examination of an entity's internal controls.
			✓		Identify and document the key controls within the flow of an entity's transactions relevant to an audit of an entity's financial statements or to an examination of an entity's internal controls.
				✓	Evaluate whether internal controls relevant to an audit of an entity's financial statements or to an examination of an entity's internal controls are effectively designed and placed in operation.
3. Implications of an entity using a service organization		✓			Identify and document the purpose and significance of an entity's use of a service organization, including its impact on an audit of an entity's financial statements or an examination of an entity's internal controls.
		✓			Use a service organization report to determine the nature and extent of testing procedures to be performed in an audit of an entity's financial statements or in an examination of an entity's internal controls.

AUDITING AND ATTESTATION (AUD)

Area II — Assessing Risk and Developing a Planned Response (20%–30%) Continued

Content Group/Topic	Skill				Representative Task
	Remembering and Understanding	Application	Analysis	Evaluation	
C. UNDERSTANDING AN ENTITY'S INTERNAL CONTROL, continued					
4. Information technology general and application controls		✓			Identify and document an entity's key IT general and application controls, including their impact on the audit of an entity's financial statements or on the examination of an entity's internal controls.
		✓			Perform and document the tests of an entity's IT general and application controls, including controls relevant to the audit of an entity's financial statements or an examination of an entity's internal controls.
5. Limitations of controls and risk of management override	✓				Understand the limitations of internal controls and the potential impact on the risk of material misstatement of an entity's financial statements.
		✓			Identify and document the risks associated with management override of internal controls and the potential impact on the risk of material misstatement of an entity's financial statements.
D. ASSESSING RISKS DUE TO FRAUD, INCLUDING DISCUSSIONS AMONG THE ENGAGEMENT TEAM ABOUT THE RISK OF MATERIAL MISSTATEMENT DUE TO FRAUD OR ERRORS					
			✓		Brainstorm possible areas that present risks of material misstatement of an entity's financial statements due to fraud or error, leveraging the combined knowledge and understanding of the engagement team.
E. IDENTIFYING AND ASSESSING THE RISK OF MATERIAL MISSTATEMENT, WHETHER DUE TO ERROR OR FRAUD, AND PLANNING FURTHER PROCEDURES RESPONSIVE TO IDENTIFIED RISKS					
1. Impact of risks at the financial statement level		✓			Identify and document the assessed impact of risks of material misstatement at the financial statement level, taking into account the effect of relevant controls.
			✓		Analyze identified risks to detect those that relate to an entity's financial statements as a whole (as contrasted to the relevant assertion level).

AUDITING AND ATTESTATION (AUD)

Area II — Assessing Risk and Developing a Planned Response (20%–30%) Continued

Content Group/Topic	Skill				Representative Task
	Remembering and Understanding	Application	Analysis	Evaluation	
E. IDENTIFYING AND ASSESSING THE RISK OF MATERIAL MISSTATEMENT, WHETHER DUE TO ERROR OR FRAUD, AND PLANNING FURTHER PROCEDURES RESPONSIVE TO IDENTIFIED RISKS, continued					
2. Impact of risks for each relevant assertion at the class of transaction, account balance, and disclosure levels		✓			Identify and document risks and related controls at the relevant assertion level for significant classes of transactions, account balances and disclosures in an entity's financial statements.
			✓		Analyze the potential impact of identified risks at the relevant assertion level for significant classes of transactions, account balances and disclosures in an entity's financial statements, taking account of the controls the auditor intends to test.
3. Further procedures responsive to identified risks		✓			Develop planned audit procedures that are responsive to identified risks of material misstatement due to fraud or error at the relevant assertion level for significant classes of transactions and account balances.
			✓		Analyze the risk of material misstatement, including the potential impact of individual and cumulative misstatements, to provide a basis for developing planned audit procedures.
F. MATERIALITY					
1. For the financial statements as a whole	✓				Understand materiality as it relates to the financial statements as a whole.
		✓			Calculate materiality for an entity's financial statements as a whole.
		✓			Calculate the materiality level (or levels) to be applied to classes of transactions, account balances and disclosures in an audit of an issuer or nonissuer.
2. Performance materiality and tolerable misstatement	✓				Understand the use of performance materiality and tolerable misstatement in an audit of an issuer or nonissuer.
		✓			Calculate performance materiality or tolerable misstatement for the purposes of assessing the risk of material misstatement and determining the nature, timing and extent of further audit procedures in an audit of an issuer or nonissuer.

AUDITING AND ATTESTATION (AUD)

Area II — Assessing Risk and Developing a Planned Response (20%–30%) Continued

Content Group/Topic	Skill				Representative Task
	Remembering and Understanding	Application	Analysis	Evaluation	
G. PLANNING FOR AND USING THE WORK OF OTHERS, INCLUDING GROUP AUDITS, THE INTERNAL AUDIT FUNCTION, AND THE WORK OF A SPECIALIST					
	✓				Identify the factors to consider in determining the extent to which an engagement team can use the work of the internal audit function in an audit or non-audit engagement.
	✓				Identify the factors to consider in determining the extent to which an engagement team should use the work of a specialist in an audit or non-audit engagement.
		✓			Determine the nature and scope of the work of the internal audit function that can be used in an audit or non-audit engagement.
		✓			Perform procedures to utilize the work of a specialist to obtain evidence in an audit or non-audit engagement.
H. SPECIFIC AREAS OF ENGAGEMENT RISK					
1. An entity's compliance with laws and regulations, including possible illegal acts	✓				Understand the auditor's responsibilities with respect to laws and regulations that have a direct effect on the determination of material amounts or disclosures in an entity's financial statements, for an audit or non-audit engagement.
	✓				Understand the auditor's responsibilities with respect to laws and regulations that are fundamental to an entity's business but do not have a direct effect on the entity's financial statements in an audit or non-audit engagement.
		✓			Perform tests of compliance with laws and regulations that have a direct effect on material amounts or disclosures in an entity's financial statements in an audit or non-audit engagement.
		✓			Perform tests of compliance with laws and regulations that are fundamental to an entity's business, but do not have a direct effect on the entity's financial statements, for an audit or non-audit engagement.

AUDITING AND ATTESTATION (AUD)

Area II — Assessing Risk and Developing a Planned Response (20%–30%) Continued

Content Group/Topic	Skill				Representative Task
	Remembering and Understanding	Application	Analysis	Evaluation	
H. SPECIFIC AREAS OF ENGAGEMENT RISK, continued					
2. Accounting estimates (including fair value estimates)	✓				Recognize the potential impact of significant accounting estimates on the risk of material misstatement, including the indicators of management bias.
3. Related parties and related party transactions		✓			Perform procedures to identify related party relationships and transactions for an audit or non-audit engagement, including consideration of significant unusual transactions and transactions with executive officers.
			✓		Analyze the potential impact of related party relationships and transactions on the risk of material misstatement for an audit or non-audit engagement, including consideration of significant unusual transactions and transactions with executive officers.

AUDITING AND ATTESTATION (AUD)

Area III — Performing Further Procedures and Obtaining Evidence (30%–40%)

Content Group/Topic	Skill				Representative Task
	Remembering and Understanding	Application	Analysis	Evaluation	
A. UNDERSTANDING SUFFICIENT APPROPRIATE EVIDENCE					
				✓	Conclude on the sufficiency and appropriateness of evidence obtained during the audit engagement for an issuer or nonissuer.
				✓	Conclude on the sufficiency and appropriateness of evidence obtained during a non-audit engagement based on the objectives and reporting requirements of the engagement.
B. SAMPLING TECHNIQUES					
	✓				Understand the purpose and application of sampling techniques in an audit or non-audit engagement.
		✓			Use sampling techniques to extrapolate the characteristics of a population from a sample of items tested.
C. PERFORMING SPECIFIC PROCEDURES TO OBTAIN EVIDENCE					
1. Analytical procedures			✓		Determine the suitability of substantive analytical procedures to provide evidence to support an identified assertion.
			✓		Develop an expectation of recorded amounts or ratios when performing analytical procedures in an audit or non-audit engagement and determine whether the expectation is sufficiently precise to identify a misstatement in the entity's financial statements or disclosures.
			✓		Perform analytical procedures during engagement planning for an audit or non-audit engagement.
			✓		Perform analytical procedures near the end of an audit engagement that assist the auditor when forming an overall conclusion about whether the financial statements are consistent with the auditor's understanding of the entity.
				✓	Evaluate the reliability of data from which an expectation of recorded amounts or ratios is developed when performing analytical procedures in an audit or non-audit engagement.
				✓	Evaluate the significance of the differences of recorded amounts from expected values when performing analytical procedures in an audit or non-audit engagement.

AUDITING AND ATTESTATION (AUD)

Area III — Performing Further Procedures and Obtaining Evidence (30%–40%) Continued

Content Group/Topic	Skill				Representative Task
	Remembering and Understanding	Application	Analysis	Evaluation	
C. PERFORMING SPECIFIC PROCEDURES TO OBTAIN EVIDENCE, continued					
2. External confirmations		✓			Prepare external confirmation requests to obtain relevant and reliable evidence in an audit engagement of an issuer or nonissuer, including considerations when using electronic confirmations.
		✓			Use external confirmations to obtain relevant and reliable evidence in an audit engagement of an issuer or nonissuer, including considerations when using electronic confirmations.
			✓		Analyze external confirmation responses in the audit of an issuer or nonissuer to determine the need for follow up or further investigation.
3. Inquiry of management and others		✓			Inquire of management and others to gather evidence and document the results in an audit or non-audit engagement.
			✓		Analyze responses obtained during structured or informal interviews with management and others and ask relevant and effective follow-up questions during the interview in an audit or non-audit engagement.
4. Observation and inspection			✓		Perform tests of operating effectiveness of internal controls, including the analysis of exceptions to identify deficiencies in an audit of financial statements or an examination of internal control.
				✓	Evaluate evidence through the use of observation and inspection procedures in an audit or non-audit engagement.
5. Recalculation and reperformance		✓			Use recalculation and reperformance to obtain evidence in an audit or non-audit engagement.
6. All other procedures	✓				Identify other procedures in addition to those set out in professional standards, as necessary, to achieve the audit objectives in an audit of an issuer or a nonissuer.
		✓			Perform other procedures in addition to those set out in professional standards, as necessary, to achieve the audit objectives in an audit of an issuer or nonissuer.

AUDITING AND ATTESTATION (AUD)

Area III — Performing Further Procedures and Obtaining Evidence (30%–40%) Continued

Content Group/Topic	Skill				Representative Task
	Remembering and Understanding	Application	Analysis	Evaluation	
D. SPECIFIC MATTERS THAT REQUIRE SPECIAL CONSIDERATION					
1. Opening balances		✓			Test whether prior-period closing balances have been correctly brought forward to the current period or restated in the audit of an issuer or nonissuer, including investigation of differences.
2. Investments in securities and derivative instruments	✓				Identify the considerations relating to the measurement and disclosure of the fair value of investments in securities and derivative instruments in an audit of an issuer or nonissuer.
		✓			Test management's assumptions, conclusions, and adjustments related to the valuation of investments in securities and derivative instruments in an audit of an issuer or nonissuer.
3. Physical observation of inventory and inventory held by others			✓		Analyze management's instructions and procedures for recording and controlling the results of an entity's physical inventory counting in an audit of an issuer or nonissuer.
				✓	Observe the performance of inventory-counting procedures, inspect the inventory, and perform test counts to verify the ending inventory quantities in an audit of an issuer or nonissuer.
4. Litigation, claims, and assessments		✓			Perform appropriate audit procedures such as inquiring of management and others, reviewing minutes, and sending external confirmations to detect the existence of litigation, claims and assessments in an audit of an issuer or nonissuer.
			✓		Analyze management's estimate of the liability associated with litigation, claims and assessments in an audit of an issuer or nonissuer.
5. An entity's ability to continue as a going concern	✓				Identify the factors that could cause substantial doubt about an entity's ability to continue as a going concern for a reasonable period of time in an audit of an issuer or nonissuer.

AUDITING AND ATTESTATION (AUD)

Area III — Performing Further Procedures and Obtaining Evidence (30%–40%) Continued

Content Group/Topic	Skill				Representative Task
	Remembering and Understanding	Application	Analysis	Evaluation	
D. SPECIFIC MATTERS THAT REQUIRE SPECIAL CONSIDERATION, <i>continued</i>					
6. Accounting estimates, including fair value estimates			✓		Perform procedures to analyze an entity's calculations and detailed support for significant accounting estimates that have a low level of estimation uncertainty in an audit of an issuer or nonissuer, including consideration of information that contradicts assumptions made by management.
			✓		Perform procedures to analyze an entity's calculations and detailed support for significant accounting estimates that have a high level of estimation uncertainty in an audit of an issuer or nonissuer, including consideration of information that contradicts assumptions made by management.
				✓	Evaluate the reasonableness of significant accounting estimates that have a low level of estimation uncertainty in an audit of an issuer or nonissuer.
				✓	Evaluate the reasonableness of significant accounting estimates that have a high level of estimation uncertainty in an audit of an issuer or nonissuer.
E. MISSTATEMENTS AND INTERNAL CONTROL DEFICIENCIES					
		✓			Prepare a summary of corrected and uncorrected misstatements.
			✓		Determine the effect of uncorrected misstatements on an entity's financial statements in an audit or non-audit engagement.
			✓		Determine the effect of identified misstatements on the assessment of internal control over financial reporting in an audit of an issuer or nonissuer.
				✓	Evaluate the significance of internal control deficiencies on the risk of material misstatement of financial statements in an audit of an issuer or nonissuer.

AUDITING AND ATTESTATION (AUD)

Area III — Performing Further Procedures and Obtaining Evidence (30%–40%) Continued

Content Group/Topic	Skill				Representative Task
	Remembering and Understanding	Application	Analysis	Evaluation	
F. WRITTEN REPRESENTATIONS					
	✓				Identify the written representations that should be obtained from management or those charged with governance in an audit or non-audit engagement.
		✓			Assist in the preparation of required written representations that should be obtained from management or those charged with governance in an audit or non-audit engagement.
G. SUBSEQUENT EVENTS AND SUBSEQUENTLY DISCOVERED FACTS					
		✓			Perform procedures to identify subsequent events that could affect an entity's financial statements or the auditor's report, including 1) events that occur between the date of the financial statements and the date of the auditor's report, and 2) facts that become known to the auditor after the date of the auditor's report in an audit of an issuer or nonissuer.
		✓			Perform procedures to identify subsequent events that could affect an entity's financial statements or the accountant's report, including 1) events that occur between the date of the financial statements and the date of the report, and 2) facts that become known to the accountant after the date of the report in a non-audit engagement.
			✓		Determine whether identified subsequent events are appropriately reflected in an entity's financial statements and disclosures in an audit or non-audit engagement.

AUDITING AND ATTESTATION (AUD)

Area IV — Forming Conclusions and Reporting (15%–25%)

Content Group/Topic	Skill				Representative Task
	Remembering and Understanding	Application	Analysis	Evaluation	
A. REPORTS ON AUDITING ENGAGEMENTS					
1. Forming an audit opinion, including modification of an auditor's opinion	✓				Identify the factors that an auditor should consider when forming an opinion on an entity's financial statements.
	✓				Identify the type of opinion that an auditor should render on the audit of an issuer or nonissuer's financial statements, including unmodified (or unqualified), qualified, adverse or disclaimer of opinion.
	✓				Identify the factors that an auditor should consider when it is necessary to modify the audit opinion on an issuer or nonissuer's financial statements, including when the financial statements are materially misstated and when the auditor is unable to obtain sufficient appropriate audit evidence.
2. Form and content of an audit report, including the use of emphasis-of-matter and other matter (explanatory) paragraphs	✓				Identify the appropriate form and content of an auditor's report for an audit of an issuer or nonissuer's financial statements, including the appropriate use of emphasis-of-matter and other matter (i.e., explanatory) paragraphs.
		✓			Prepare a draft auditor's report starting with a report example (e.g., an illustrative audit report from professional standards) in the audit or an issuer or nonissuer.
B. REPORTS ON ATTESTATION ENGAGEMENTS					
1. General standards for attestation reports	✓				Identify the factors that a practitioner should consider when issuing an examination or review report for an attestation engagement.
		✓			Prepare a draft examination or review report for an attestation engagement starting with a report example (e.g., an illustrative report from professional standards).
2. Agreed-upon procedures reports	✓				Identify the factors that a practitioner should consider when issuing an agreed-upon procedures report for an attestation engagement.
		✓			Prepare a draft agreed-upon procedures report for an attestation engagement starting with a report example (e.g., an illustrative report from professional standards).

AUDITING AND ATTESTATION (AUD)

Area IV — Forming Conclusions and Reporting (15%–25%) Continued

Content Group/Topic	Skill				Representative Task
	Remembering and Understanding	Application	Analysis	Evaluation	
B. REPORTS ON ATTESTATION ENGAGEMENTS, continued					
3. Examinations of internal control integrated with an audit of financial statements	✓				Identify the factors that an auditor should consider when forming an opinion on the effectiveness of internal control in an examination of internal control.
	✓				Identify the appropriate form and content of a report on the examination of internal control, including report modifications and the use of separate or combined reports for the audit of an entity's financial statements and the examination of internal control.
		✓			Prepare a draft report for an examination of internal control engagement or for an examination of internal control integrated with the audit of an entity's financial statements, starting with a report example (e.g., an illustrative report from professional standards).
4. Reporting on controls at a service organization	✓				Identify the factors that a service auditor should consider when reporting on the examination of controls at a service organization.
		✓			Prepare a draft report for an engagement to report on the examination of controls at a service organization, starting with a report example (e.g., an illustrative report from professional standards).
C. ACCOUNTING AND REVIEW SERVICE ENGAGEMENTS					
1. Preparation engagements	✓				Identify the factors an auditor should consider when performing a preparation engagement.
2. Compilation reports	✓				Identify the factors that an accountant should consider when reporting on an engagement to compile an entity's financial statements, including the proper form and content of the compilation report.
		✓			Prepare a draft report for an engagement to compile an entity's financial statements, starting with a report example (e.g., an illustrative report from professional literature).

AUDITING AND ATTESTATION (AUD)

Area IV — Forming Conclusions and Reporting (15%–25%) Continued

Content Group/Topic	Skill				Representative Task
	Remembering and Understanding	Application	Analysis	Evaluation	
C. ACCOUNTING AND REVIEW SERVICE ENGAGEMENTS, continued					
3. Review reports	✓				Identify the factors that an accountant should consider when reporting on an engagement to review an entity's financial statements, including the proper form and content of the review report.
		✓			Prepare a draft report for an engagement to review an entity's financial statements, starting with a report example (e.g., an illustrative report from professional standards).
D. REPORTING ON COMPLIANCE					
	✓				Identify the factors that a practitioner should consider when reporting on an attestation engagement related to an entity's compliance with the requirements of specified laws, regulations, rules, contracts or grants, including reports on the effectiveness of internal controls over compliance with the requirements.
	✓				Identify the factors that an auditor should consider when reporting on compliance with aspects of contractual agreements or regulatory requirements in connection with an audit of an entity's financial statements.
		✓			Prepare a draft compliance report for an attestation engagement to report on an entity's compliance with the requirements of specified laws, regulations, rules, contracts or grants starting with a report example (e.g., an illustrative report from professional standards).
		✓			Prepare a draft compliance report when reporting on compliance with aspects of contractual agreements or regulatory requirements in connection with an audit of an entity's financial statements starting with a report example (e.g., an illustrative report from professional standards).
E. OTHER REPORTING CONSIDERATIONS					
1. Comparative statements and consistency between periods	✓				Identify the factors that would affect the comparability or consistency of financial statements, including a change in accounting principle, the correction of a material misstatement, and a material change in classification.

AUDITING AND ATTESTATION (AUD)

Area IV — Forming Conclusions and Reporting (15%–25%) Continued

Content Group/Topic	Skill				Representative Task
	Remembering and Understanding	Application	Analysis	Evaluation	
E. OTHER REPORTING CONSIDERATIONS, continued					
2. Other information in documents with audited statements	✓				Understand the auditor’s responsibilities related to other information included in documents with audited financial statements.
3. Review of interim financial information	✓				Identify the factors an auditor should consider when reporting on an engagement to review interim financial information.
4. Supplementary information	✓				Identify the factors an auditor should consider when reporting on supplementary information included in or accompanying an entity’s financial statements.
5. Single statements	✓				Identify the factors an auditor should consider when reporting on the audit of a single financial statement.
6. Special-purpose and other country framework	✓				Identify the factors an auditor should consider when reporting on the audit of financial statements prepared in accordance with a financial reporting framework generally accepted in another country, when the financial statements are intended for use outside of the United States.
	✓				Identify the factors an auditor should consider when reporting on the audit of financial statements prepared in accordance with a special-purpose framework, including cash basis, tax basis, regulatory basis, contractual basis or other basis.
7. Letters for underwriters and filings with the SEC	✓				Identify the factors an auditor should consider when engaged to issue a comfort letter in connection with an entity’s financial statements included in a securities offering.
	✓				Identify the factors an auditor should consider in connection with audited financial statements of a nonissuer that are included in a registration statement.
8. Alerts that restrict the use of written communication	✓				Identify the factors an auditor should consider when restricting the use of written communication by including an alert, when the potential exists for the written communication to be misunderstood or taken out of context.

BUSINESS ENVIRONMENT AND CONCEPTS (BEC)

Summary Blueprint

Content Area Allocation	Weight
I. Corporate Governance	17%–27%
II. Economic Concepts and Analysis	17%–27%
III. Financial Management	11%–21%
IV. Information Technology	15%–25%
V. Operations Management	15%–25%

Skill Allocation	Weight
Evaluation	–
Analysis	20%–30%
Application	50%–60%
Remembering and Understanding	15%–25%

BUSINESS ENVIRONMENT AND CONCEPTS

Area I — Corporate Governance (17–27%)

Content Group/Topic	Skill				Representative Task
	Remembering and Understanding	Application	Analysis	Evaluation	
A. INTERNAL CONTROL FRAMEWORKS					
1. Purpose and objectives	✓				Define internal control within the context of the COSO Internal Control framework including the purpose, objectives and limitations of the framework.
2. Components and principles	✓				Identify and define the components, principles and underlying structure of the COSO Internal Control framework.
		✓			Apply the COSO Internal Control framework to identify controls for risk scenarios in an entity.
		✓			Describe the corporate governance structure within an organization (tone at the top, policies, steering committees, oversight, etc.).
B. ENTERPRISE RISK MANAGEMENT FRAMEWORKS					
1. Purpose and objectives	✓				Define enterprise risk management within the context of the COSO Enterprise Risk Management framework including the purpose, objectives and limitations of the framework.
2. Components and principles	✓				Identify and define the components, principles, and underlying structure of the COSO Enterprise Risk Management framework.
		✓			Apply the COSO Enterprise Risk Management framework to identify risk/opportunity scenarios in an entity.
C. OTHER REGULATORY FRAMEWORKS AND PROVISIONS					
	✓				Identify and define key corporate governance provisions of the Sarbanes-Oxley Act of 2002 and other regulatory pronouncements.
		✓			Identify regulatory deficiencies within an entity by using the requirements associated with the Sarbanes-Oxley Act of 2002.

BUSINESS ENVIRONMENT AND CONCEPTS

Area II — Economic Concepts and Analysis (17–27%)

Content Group/Topic	Skill				Representative Task
	Remembering and Understanding	Application	Analysis	Evaluation	
A. ECONOMIC AND BUSINESS CYCLES MEASURES AND INDICATORS					
	✓				Identify and define business cycles and conditions and government policies that impact an entity's industry or operations.
		✓			Calculate and use economic measures and indicators to explain the impact on an entity's industry or operations due to changes in government policies, business cycles and economic conditions.
B. MARKET INFLUENCES ON BUSINESS					
		✓			Identify and define the key factors related to the economic marketplace and how they impact the business entity.
			✓		Determine the impact of market influences on the overall economy as well as on an entity's business strategy and operations.
			✓		Determine the business reasons for, and explain the underlying economic substance of, significant transactions (business combinations, divestitures, etc.).
C. FINANCIAL RISK MANAGEMENT					
1. Market, interest rate, currency, liquidity, credit, price and other risks		✓			Calculate and use ratios and measures to quantify risks associated with interest rates, currency exchange, liquidity, prices, etc. in a business entity.
2. Means for mitigating/controlling financial risks		✓			Identify strategies to mitigate financial risks (market, interest rate, currency, liquidity, etc.) and quantify their impact on a business entity.

BUSINESS ENVIRONMENT AND CONCEPTS

Area III — Financial Management (11–21%)

Content Group/Topic	Skill				Representative Task
	Remembering and Understanding	Application	Analysis	Evaluation	
A. CAPITAL STRUCTURE					
		✓			Describe an organization's capital structure and related concepts, such as cost of capital, asset structure, loan covenants, growth rate, profitability, leverage and risk.
		✓			Calculate the cost of capital for a given financial scenario.
			✓		Compare and contrast the strategies for financing new business initiatives and operations within the context of an optimal capital structure.
B. WORKING CAPITAL					
1. Fundamentals and key metrics of working capital management		✓			Calculate the metrics associated with the working capital components, such as current ratio, quick ratio, cash conversion cycle, inventory turnover and receivables turnover.
			✓		Detect significant fluctuations or variances in the working capital cycle using working capital ratio analyses.
2. Strategies for managing working capital			✓		Compare inventory management processes, including pricing and valuation methods, to minimize the working capital requirements of a given entity.
			✓		Compare accounts payable management techniques, including usage of discounts, factors affecting discount policy, uses of electronic funds transfer as payment methods, and determination of an optimal vendor payment schedule in order to optimize the working capital of a given entity.
			✓		Distinguish between corporate banking arrangements, including establishment of lines of credit, borrowing capacity and monitoring of compliance with debt covenants in order to optimize the working capital of a given entity.
			✓		Interpret the differences between the business risks and the opportunities in an entity's credit management policies to minimize working capital requirements.
			✓		Analyze the effects on working capital caused by financing using long-term debt and/or short-term debt.

BUSINESS ENVIRONMENT AND CONCEPTS

Area III — Financial Management (11–21%) Continued

Content Group/Topic	Skill				Representative Task
	Remembering and Understanding	Application	Analysis	Evaluation	
C. FINANCIAL VALUATION METHODS AND DECISION MODELS					
	✓				Identify and define the different financial valuation methods and their assumptions.
	✓				Identify and define the different financial decision models and their assumptions.
		✓			Calculate the value of an asset using commonly accepted financial valuation methods.
			✓		Compare investment alternatives using calculations of financial metrics (payback period, net-present value, economic value added, cash flow analysis, internal rate of return, etc.).

BUSINESS ENVIRONMENT AND CONCEPTS

Area IV — Information Technology (15–25%)

Content Group/Topic	Skill				Representative Task
	Remembering and Understanding	Application	Analysis	Evaluation	
A. INFORMATION TECHNOLOGY GOVERNANCE					
1. Vision and Strategy	✓				Identify the role that the Information Technology function plays in determining/ supporting an organization's vision and strategy.
2. Organization		✓			Describe the Information Technology (IT) governance structure within an organization (tone at the top, policies, steering committees, IT strategies, oversight, etc.).
3. Risk Assessments		✓			Conduct an Information Technology risk assessment, identify risks and suggest mitigation strategies.
B. ROLE OF INFORMATION TECHNOLOGY IN BUSINESS					
		✓			Identify the role of information systems in key business processes within an entity.
C. INFORMATION SECURITY/AVAILABILITY					
1. Protection of Information		✓			Recognize the risks and controls associated with protecting sensitive and critical information within an organization's information technology environment (the use of mobile technology, data storage devices, data transmission, etc).
2. Logical and Physical Access Controls		✓			Identify weaknesses and mitigation strategies within an entity's information technology environment in relation to logical and physical access controls.
		✓			Identify weaknesses and mitigation strategies within an entity's information technology (IT) environment in relation to IT general and application controls.
3. System Disruption/ Resolution		✓			Describe an entity's disaster recovery/business continuity plans, including threat identification and mitigation strategies, data backup and recovery procedures, alternate processing facilities, etc.

BUSINESS ENVIRONMENT AND CONCEPTS

Area IV — Information Technology (15–25%) Continued

Content Group/Topic	Skill				Representative Task
	Remembering and Understanding	Application	Analysis	Evaluation	
D. PROCESSING INTEGRITY (INPUT/PROCESSING/OUTPUT CONTROLS)					
		✓			Describe the role of input, processing, and output controls within an entity to support completeness, accuracy and continued processing integrity.
		✓			Determine the appropriateness of the design and operating effectiveness of application controls (authorizations, approvals, tolerance levels, input edits, etc.).
		✓			Identify issues related to the design and effectiveness of Information Technology control activities, including manual vs. automated controls, as well as preventive, detective and corrective controls.
E. SYSTEMS DEVELOPMENT AND MAINTENANCE					
	✓				Identify different information system testing strategies.
		✓			Recognize the fundamental issues and risks associated with implementing new information systems or maintaining existing information systems within an entity.

BUSINESS ENVIRONMENT AND CONCEPTS

Area V — Operations Management (15–25%)

Content Group/Topic	Skill				Representative Task
	Remembering and Understanding	Application	Analysis	Evaluation	
A. FINANCIAL AND NON FINANCIAL MEASURES OF PERFORMANCE MANAGEMENT					
		✓			Calculate financial and non-financial measures appropriate to analyze specific aspects of an entity's performance (e.g., Economic Value Added, Costs of Quality-Prevention vs. Appraisal vs. Failure, etc.).
			✓		Determine which financial and non-financial measures are appropriate to analyze specific aspects of an entity's performance (e.g., Return on Equity, Return on Assets, Contribution Margin, etc.).
B. COST ACCOUNTING					
1. Cost Measurement Concepts, Methods and Techniques		✓			Apply cost accounting concepts, terminology, methods and measurement techniques within an entity.
2. Variance analysis			✓		Determine the appropriate variance analysis method to measure the key cost drivers by analyzing business scenarios.
C. PROCESS MANAGEMENT					
1. Approaches, techniques, measures, benefits to process-management driven businesses	✓				Identify commonly used operational management approaches, techniques and measures within the context of business process management.
2. Management Philosophies and Techniques for Performance Improvement	✓				Identify commonly used management philosophies and techniques for performance and quality improvement within the context of business process management.

BUSINESS ENVIRONMENT AND CONCEPTS

Area V — Operations Management (15–25%) Continued

Content Group/Topic	Skill				Representative Task
	Remembering and Understanding	Application	Analysis	Evaluation	
D. PLANNING TECHNIQUES					
1. Budgeting and analysis		✓			Prepare a budget to guide business decisions.
			✓		Reconcile results against a budget or prior periods and perform analysis of variances as needed.
2. Forecasting and projection		✓			Use forecasting and projection techniques to model revenue growth, cost and expense characteristics, profitability, etc.
		✓			Prepare and calculate metrics to be utilized in the planning process such as cost benefit analysis, sensitivity analysis, breakeven analysis, economic order quantity, etc.
			✓		Analyze results of forecasts and projections using ratio analysis and explanations of correlations to, or variations from, key financial indices.
			✓		Compare and contrast alternative approaches (such as system replacement, make vs. buy, and cost/benefit) proposed to address business challenges or opportunities for a given entity.

FINANCIAL ACCOUNTING AND REPORTING (FAR)

Summary Blueprint

Content Area Allocation	Weight
I. Conceptual Framework and Financial Reporting	25%–35%
II. Select Financial Statement Accounts	30%–40%
III. Select Transactions	20%–30%
IV. State and Local Governments	5%–15%

Skill Allocation	Weight
Evaluation	–
Analysis	25%–35%
Application	50%–60%
Remembering and Understanding	10%–20%

FINANCIAL ACCOUNTING AND REPORTING

Area I — Conceptual Framework and Financial Reporting (25%–35%)

Content Group/Topic	Skill				Representative Task
	Remembering and Understanding	Application	Analysis	Evaluation	
A. CONCEPTUAL FRAMEWORK FOR BUSINESS AND NONBUSINESS ENTITIES					
	✓				Recall the purpose and characteristics in the conceptual framework for business and nonbusiness entities.
B. GENERAL PURPOSE FINANCIAL STATEMENTS: FOR PROFIT BUSINESS ENTITIES					
1. Balance sheet/ Statement of financial position		✓			Prepare a classified balance sheet from a trial balance and supporting documentation.
		✓			Adjust the balance sheet to correct identified errors.
			✓		Detect, investigate and correct discrepancies while agreeing the balance sheet amounts to supporting documentation.
			✓		Calculate fluctuations and ratios and interpret the results while reviewing comparative balance sheets.
2. Income statement/ Statement of profit or loss		✓			Prepare a multiple-step income statement from a trial balance and supporting documentation.
		✓			Prepare a single-step income statement from a trial balance and supporting documentation.
		✓			Adjust the income statement to correct identified errors.
				✓	Detect, investigate and correct discrepancies while agreeing the income statement amounts to supporting documentation.
				✓	Calculate fluctuations and ratios and interpret the results while reviewing income statements.

FINANCIAL ACCOUNTING AND REPORTING

Area I — Conceptual Framework and Financial Reporting (25%–35%) Continued

Content Group/Topic	Skill				Representative Task
	Remembering and Understanding	Application	Analysis	Evaluation	
B. GENERAL PURPOSE FINANCIAL STATEMENTS: FOR PROFIT BUSINESS ENTITIES, continued					
3. Statement of comprehensive income		✓			Prepare a statement of comprehensive income from a trial balance and supporting documentation.
		✓			Calculate reclassification adjustments for items of other comprehensive income.
		✓			Adjust the statement of comprehensive income to correct identified errors.
			✓		Detect, investigate and correct discrepancies while agreeing the statement of comprehensive income amounts to supporting documentation.
4. Statement of changes in equity		✓			Prepare a statement of changes in equity from a trial balance and supporting documentation.
		✓			Adjust the statement of changes in equity to correct identified errors.
			✓		Detect, investigate and correct discrepancies while agreeing the statement of changes in equity amounts to supporting documentation.
5. Statement of cash flows		✓			Prepare a statement of cash flows using the direct method and required disclosures from supporting documentation.
		✓			Prepare a statement of cash flows using the indirect method and required disclosures from supporting documentation.
		✓			Adjust a statement of cash flows to correct identified errors.
			✓		Detect, investigate and correct discrepancies while agreeing the statement of cash flows amounts to supporting documentation.
			✓		Derive the impact of transactions on the statement of cash flows.

FINANCIAL ACCOUNTING AND REPORTING

Area I — Conceptual Framework and Financial Reporting (25%–35%) Continued

Content Group/Topic	Skill				Representative Task
	Remembering and Understanding	Application	Analysis	Evaluation	
B. GENERAL PURPOSE FINANCIAL STATEMENTS: FOR PROFIT BUSINESS ENTITIES, continued					
6. Notes to financial statements		✓			Adjust the notes to the financial statements to correct identified errors and omissions.
			✓		Compare the notes to the financial statements to the financial statements and supporting documentation to identify inconsistencies and investigate those inconsistencies.
7. Consolidated financial statements (including wholly owned subsidiaries and noncontrolling interests)	✓				Recall basic consolidation concepts and terms (e.g. controlling interest, noncontrolling interest, primary beneficiary, variable interest entity).
		✓			Prepare consolidated financial statements (includes adjustments, eliminations and/or noncontrolling interests) from supporting documentation.
		✓			Adjust consolidated financial statements to correct identified errors.
			✓		Detect, investigate and correct discrepancies identified while agreeing the consolidated financial statement amounts to supporting documentation.
8. Discontinued operations		✓			Prepare the discontinued operations portion of the financial statements from a trial balance and supporting documentation.
9. Going concern	✓				Recall the requirements for disclosing uncertainties about an entity's ability to continue as a going concern.
C. GENERAL PURPOSE FINANCIAL STATEMENTS: NONGOVERNMENTAL, NOT FOR PROFIT ENTITIES					
1. Statement of financial position	✓				Recall the purpose and objectives of the statement of financial position for a nongovernmental, not-for-profit entity.
		✓			Prepare a statement of financial position for a nongovernmental, not-for-profit entity from a trial balance and supporting documentation.
		✓			Adjust the statement of financial position for a nongovernmental, not-for-profit entity to correct identified errors.

FINANCIAL ACCOUNTING AND REPORTING

Area I — Conceptual Framework and Financial Reporting (25%–35%) Continued

Content Group/Topic	Skill				Representative Task
	Remembering and Understanding	Application	Analysis	Evaluation	
C. GENERAL PURPOSE FINANCIAL STATEMENTS: NONGOVERNMENTAL, NOT FOR PROFIT ENTITIES, continued					
2. Statement of activities	✓				Recall the purpose and objectives of the statement of activities for a nongovernmental, not-for-profit entity.
		✓			Prepare a statement of activities for a nongovernmental, not-for-profit entity from a trial balance and supporting documentation.
		✓			Adjust the statement of activities for a nongovernmental, not-for-profit entity to correct identified errors.
3. Statement of cash flows	✓				Recall the purpose and objectives of the statement of cash flows for a nongovernmental, not-for-profit entity.
		✓			Prepare a statement of cash flows and required disclosures using the direct method for a nongovernmental, not-for-profit entity.
		✓			Prepare a statement of cash flows and required disclosures using the indirect method for a nongovernmental, not-for-profit entity.
		✓			Adjust the statement of cash flows for a nongovernmental, not-for-profit entity to correct identified errors.
4. Statement of functional expenses	✓				Recall the purpose and objectives of the statement of functional expenses for a nongovernmental, not-for-profit entity.
		✓			Prepare a statement of functional expenses for a nongovernmental, not-for-profit entity from a trial balance and supporting documentation.
		✓			Adjust the statement of functional expenses for a nongovernmental, not-for-profit entity to correct identified errors.

FINANCIAL ACCOUNTING AND REPORTING

Area I — Conceptual Framework and Financial Reporting (25%–35%) Continued

Content Group/Topic	Skill				Representative Task
	Remembering and Understanding	Application	Analysis	Evaluation	
D. PUBLIC COMPANY REPORTING TOPICS (U.S. SEC REPORTING REQUIREMENTS, EARNINGS PER SHARE AND SEGMENT REPORTING)					
	✓				Recall the purpose of forms 10-Q, 10-K and 8-K that a U.S. registrant is required to file with the U.S. Securities and Exchange Commission under the Securities Exchange Act of 1934.
	✓				Identify the significant components of Form 10-Q and Form 10-K filed with the U.S. Securities and Exchange Commission.
		✓			Prepare financial statement note disclosures for reportable segments.
		✓			Calculate basic earnings per share.
		✓			Calculate diluted earnings per share.
E. FINANCIAL STATEMENTS OF EMPLOYEE BENEFIT PLANS					
	✓				Identify the required financial statements for a defined benefit pension plan and a defined contribution pension plan.
		✓			Prepare a statement of changes in net assets available for benefits for a defined benefit pension plan and a defined contribution pension plan.
		✓			Prepare a statement of net assets available for benefits for a defined benefit pension plan and a defined contribution pension plan.

FINANCIAL ACCOUNTING AND REPORTING

Area I — Conceptual Framework and Financial Reporting (25%–35%) Continued

Content Group/Topic	Skill				Representative Task
	Remembering and Understanding	Application	Analysis	Evaluation	
F. SPECIAL PURPOSE FRAMEWORKS					
	✓				Recall appropriate financial statement titles to be used for the financial statements prepared under a special purpose framework.
		✓			Perform calculations to convert cash basis or modified cash basis financial statements to accrual basis financial statements.
		✓			Prepare financial statements using the cash basis of accounting.
		✓			Prepare financial statements using a modified cash basis of accounting.
		✓			Prepare financial statements using the income tax basis of accounting.

FINANCIAL ACCOUNTING AND REPORTING

Area II — Select Financial Statement Accounts (30%–40%)

Content Group/Topic	Skill			Representative Task	
	Remembering and Understanding	Application	Analysis		Evaluation
A. CASH AND CASH EQUIVALENTS					
		✓			Calculate cash and cash equivalents balances to be reported in the financial statements.
			✓		Reconcile cash balance per the bank statement to the general ledger.
			✓		Investigate unreconciled cash balances to determine whether an adjustment to the general ledger is necessary.
B. TRADE RECEIVABLES					
		✓			Calculate trade accounts receivable and allowance for doubtful accounts balances and prepare journal entries.
		✓			Prepare any required journal entries to record the transfer of trade receivables (secured borrowings, factoring, assignment, pledging).
			✓		Prepare a rollforward of the trade receivables account balance using various sources of information.
			✓		Reconcile and investigate differences between the subledger and general ledger for trade receivables to determine whether an adjustment is necessary.
C. INVENTORY					
		✓			Calculate the inventory balances and prepare journal entries using various costing methods.
		✓			Measure impairment losses on inventory.
			✓		Reconcile and investigate differences between the subledger and general ledger for inventory to determine whether an adjustment is necessary.
			✓		Prepare a rollforward of the inventory account balance using various sources of information.

FINANCIAL ACCOUNTING AND REPORTING

Area II — Select Financial Statement Accounts (30%–40%) Continued

Content Group/Topic	Skill				Representative Task
	Remembering and Understanding	Application	Analysis	Evaluation	
D. PROPERTY, PLANT AND EQUIPMENT					
		✓			Calculate the gross and net property, plant and equipment balances and prepare journal entries.
		✓			Calculate gains or losses on the disposal of long-lived assets to be recognized in the financial statements.
		✓			Measure impairment losses on long-lived assets to be recognized in the financial statements.
		✓			Calculate the amounts necessary to prepare journal entries to record a nonmonetary exchange.
		✓			Determine whether an asset qualifies to be reported as held for sale in the financial statements.
		✓			Adjust the carrying amount of assets held for sale and calculate the loss to be recognized in the financial statements.
			✓		Prepare a rollforward of the property, plant and equipment account balance using various sources of information.
			✓		Reconcile and investigate differences between the subledger and general ledger for property, plant and equipment to determine whether an adjustment is necessary.
E. INVESTMENTS					
1. Financial assets at fair value	✓				Identify investments that are eligible or required to be reported at fair value in the financial statements.
		✓			Calculate the carrying amount of investments measured at fair value and prepare journal entries (excluding impairment).

FINANCIAL ACCOUNTING AND REPORTING

Area II — Select Financial Statement Accounts (30%–40%) Continued

Content Group/Topic	Skill				Representative Task
	Remembering and Understanding	Application	Analysis	Evaluation	
E. INVESTMENTS, continued					
1. Financial assets at fair value		✓			Calculate gains and losses to be recognized in net income or other comprehensive income for investments measured at fair value and prepare journal entries.
		✓			Calculate investment income to be recognized in net income for investments measured at fair value and prepare journal entries.
		✓			Measure impairment losses to be recognized on applicable investments reported at fair value in the financial statements.
2. Financial assets at amortized cost	✓				Identify investments that are eligible to be reported at amortized cost in the financial statements.
		✓			Calculate the carrying amount of investments measured at amortized cost and prepare journal entries (excluding impairment).
		✓			Measure impairment losses to be recognized on investments reported at amortized cost in the financial statements.
3. Equity method investments	✓				Identify when the equity method of accounting can be applied to an investment.
		✓			Calculate the carrying amount of equity method investments and prepare journal entries (excluding impairment).
		✓			Measure impairment losses to be recognized in the financial statements on equity method investments.

FINANCIAL ACCOUNTING AND REPORTING

Area II — Select Financial Statement Accounts (30%–40%) Continued

Content Group/Topic	Skill				Representative Task
	Remembering and Understanding	Application	Analysis	Evaluation	
F. INTANGIBLE ASSETS – GOODWILL AND OTHER					
	✓				Identify the criteria for recognizing intangible assets in the statement of financial position and classify intangible assets as either finite-lived or indefinite-lived.
	✓				Identify impairment indicators for goodwill and other indefinite-lived intangible assets.
		✓			Calculate the carrying amount of finite-lived intangible assets reported in the financial statements (initial measurement, amortization and impairment) and prepare journal entries.
		✓			Calculate the carrying amount of goodwill and other indefinite-lived intangible assets reported in the financial statements (includes initial measurement and impairment) and prepare journal entries.
G. PAYABLES AND ACCRUED LIABILITIES					
		✓			Calculate the carrying amount of payables and accrued liabilities and prepare journal entries.
		✓			Identify and calculate liabilities arising from exit or disposal activities and determine the timing of recognition in the financial statements.
			✓		Reconcile and investigate differences between the subledger and general ledger for accounts payable and accrued liabilities to determine whether an adjustment is necessary.
H. LONG TERM DEBT (FINANCIAL LIABILITIES)					
1. Notes and bonds payable	✓				Classify a change to a debt instrument as either a modification of terms or an extinguishment of debt.
	✓				Understand when a change to the terms of a debt instrument qualifies as a troubled debt restructuring.
	✓				Classify a financial instrument as either debt or equity, based on its characteristics.

FINANCIAL ACCOUNTING AND REPORTING

Area II — Select Financial Statement Accounts (30%–40%) Continued

Content Group/Topic	Skill				Representative Task
	Remembering and Understanding	Application	Analysis	Evaluation	
H. LONG TERM DEBT (FINANCIAL LIABILITIES), continued					
1. Notes and bonds payable		✓			Calculate the interest expense attributable to notes and bonds payable reported in the financial statements (including discounts, premiums or debt issuance costs).
		✓			Calculate the carrying amount of notes and bonds payable and prepare journal entries.
2. Debt covenant compliance		✓			Calculate debt covenants as stipulated in a debt agreement to ascertain compliance.
I. EQUITY					
		✓			Prepare journal entries to recognize equity transactions in the financial statements.
		✓			Calculate unrestricted, temporarily restricted and permanently restricted net asset balances for a nongovernmental, not-for-profit entity and prepare journal entries.
J. REVENUE RECOGNITION					
	✓				Recall concepts of accounting for revenue.
		✓			Determine the amount and timing of revenue to be recognized under an arrangement with multiple goods and/or services and prepare journal entries.
		✓			Determine the amount and timing of revenue to be recognized under an arrangement for a single good or service and prepare journal entries.
		✓			Determine the amount and timing of revenue to be recognized under an arrangement where delivery is continuous and prepare journal entries.
		✓			Determine revenue to be recognized by a nongovernmental, not-for profit entity for contributed services received and prepare journal entries.

FINANCIAL ACCOUNTING AND REPORTING

Area II — Select Financial Statement Accounts (30%–40%) Continued

Content Group/Topic	Skill				Representative Task
	Remembering and Understanding	Application	Analysis	Evaluation	
J. REVENUE RECOGNITION, continued					
			✓		Interpret agreements, contracts and/or other supporting documentation to determine the amount and timing of revenue to be recognized in the financial statements.
			✓		Reconcile and investigate differences between the sales subledger and the general ledger to determine whether an adjustment is necessary.
K. COMPENSATION AND BENEFITS					
1. Compensated absences		✓			Calculate the carrying amount of the liability for compensated absences and prepare journal entries.
2. Retirement benefits		✓			Calculate the costs and the funded status for a defined benefit pension plan or a defined benefit postretirement plan and prepare journal entries.
3. Stock compensation (share-based payments)	✓				Recall concepts associated with share-based payment arrangements (grant date, vesting conditions, inputs to valuation techniques, valuation models).
		✓			Calculate compensation costs to be recognized for a share-based payment arrangement classified as an equity award and prepare journal entries.
		✓			Calculate compensation costs to be recognized for a share-based payment arrangement classified as a liability award and prepare journal entries.
L. INCOME TAXES					
	✓				Recall the criteria for recognizing uncertain tax positions in the financial statements.
	✓				Recall the criteria for recognizing or adjusting a valuation allowance for a deferred tax asset in the financial statements.
		✓			Calculate the income tax expense, current taxes payable/receivable and deferred tax liabilities/assets to be reported in the financial statements.
		✓			Prepare journal entries to record the tax provision in the financial statements.

FINANCIAL ACCOUNTING AND REPORTING

Area III — Select Transactions (20%–30%)

Content Group/Topic	Skill				Representative Task
	Remembering and Understanding	Application	Analysis	Evaluation	
A. ACCOUNTING CHANGES AND ERROR CORRECTIONS					
		✓			Calculate a required adjustment to the financial statements due to an accounting change or error correction and determine whether it requires prospective or retrospective application.
			✓		Derive the impact to the financial statements and related note disclosures of an accounting change or an error correction.
B. BUSINESS COMBINATIONS					
		✓			Prepare journal entries to record the identifiable net assets acquired in a business combination that results in the recognition of goodwill.
		✓			Prepare journal entries to record the identifiable net assets acquired in a business combination that includes a noncontrolling interest.
		✓			Prepare journal entries to record the identifiable net assets acquired in a business combination that results in the recognition of a bargain purchase gain.
		✓			Adjust the financial statements to properly reflect changes in contingent consideration related to a business combination.
		✓			Calculate the consideration transferred in a business combination.
		✓			Adjust the financial statements to properly reflect measurement period adjustments related to a business combination.

FINANCIAL ACCOUNTING AND REPORTING

Area III — Select Transactions (20%–30%) Continued

Content Group/Topic	Skill				Representative Task
	Remembering and Understanding	Application	Analysis	Evaluation	
C. CONTINGENCIES AND COMMITMENTS					
	✓				Recall the recognition and disclosure criteria used to identify commitments and contingencies.
		✓			Calculate amounts of contingencies and prepare journal entries.
			✓		Review supporting documentation to determine whether a commitment or contingency requires recognition or disclosure in the financial statements.
D. DERIVATIVES AND HEDGE ACCOUNTING (E.G. SWAPS, OPTIONS, FORWARDS)					
	✓				Identify the characteristics of a freestanding and/or embedded derivative financial instrument to be recognized in the financial statements.
	✓				Identify the criteria necessary to qualify for hedge accounting.
		✓			Prepare journal entries for hedging transactions.
		✓			Prepare journal entries for derivative financial instruments (swaps, options and forwards).
E. FOREIGN CURRENCY TRANSACTIONS AND TRANSLATION					
	✓				Recall the basic functional currency concepts including the indicators to be considered when determining an entity's functional currency.
		✓			Calculate transaction gains or losses recognized from monetary transactions denominated in a foreign currency.
		✓			Adjust an entity's financial statements (local currency to functional currency or functional currency to reporting currency) and recognize the effect on equity through net income or other comprehensive income.

FINANCIAL ACCOUNTING AND REPORTING

Area III — Select Transactions (20%–30%) Continued

Content Group/Topic	Skill				Representative Task
	Remembering and Understanding	Application	Analysis	Evaluation	
F. LEASES					
	✓				Recall the appropriate accounting treatment for residual value guarantees, bargain purchase options and variable lease payments included in leasing arrangements.
	✓				Identify the criteria for classifying a lease arrangement.
		✓			Calculate the carrying amount of lease-related assets and liabilities and prepare journal entries that a lessee should record.
		✓			Calculate the carrying amount of lease-related assets and prepare journal entries that a lessor should record.
		✓			Calculate the lease costs that a lessee should recognize in the income statement.
		✓			Prepare journal entries that the seller/lessee should record for a sale-leaseback transaction.
		✓			Calculate the amount of lease income that a lessor should recognize in the income statement.
G. NONRECIPROCAL TRANSFERS					
	✓				Recall the recognition requirements associated with conditional and unconditional promises to give (pledges) for a nongovernmental, not-for-profit entity.
	✓				Identify transfers to a nongovernmental, not-for-profit entity acting as an agent or intermediary that are not recognized as contributions in the statement of activities.
		✓			Calculate the carrying amount of donated assets (financial assets or long-lived assets) to be reported in the statement of financial position.
		✓			Calculate increases in unrestricted, temporarily restricted or permanently restricted net assets attributable to contributions for a nongovernmental, not-for-profit entity.

FINANCIAL ACCOUNTING AND REPORTING

Area III — Select Transactions (20%–30%) Continued

Content Group/Topic	Skill				Representative Task
	Remembering and Understanding	Application	Analysis	Evaluation	
H. RESEARCH AND DEVELOPMENT COSTS					
	✓				Identify research and development costs and classify the costs as an expense in the financial statements.
		✓			Calculate the research and development costs to be reported as an expense in the financial statements.
I. SOFTWARE COSTS					
	✓				Identify the criteria necessary to capitalize software costs (software for internal use or sale) in the financial statements.
		✓			Calculate capitalized software costs (software for internal use or sale) to be reported in the financial statements and the related amortization expense.
J. SUBSEQUENT EVENTS					
	✓				Identify a subsequent event and recall its appropriate accounting treatment.
		✓			Calculate required adjustments to financial statements and/or note disclosures based on identified subsequent events.
			✓		Derive the impact to the financial statements and required note disclosures due to identified subsequent events.

FINANCIAL ACCOUNTING AND REPORTING

Area III — Select Transactions (20%–30%) Continued

Content Group/Topic	Skill				Representative Task
	Remembering and Understanding	Application	Analysis	Evaluation	
K. FAIR VALUE MEASUREMENTS					
	✓				Identify the valuation techniques used to measure fair value.
		✓			Use the fair value hierarchy to determine the classification of a fair value measurement.
		✓			Use the fair value guidance (e.g. highest and best use, market participant assumptions, unit of account) to measure the fair value of assets and liabilities.
L. DIFFERENCES BETWEEN IFRS AND U.S. GAAP					
	✓				Identify accounting and reporting differences between IFRS and U.S. GAAP.
		✓			Determine the impact of the differences between IFRS and U.S. GAAP on the financial statements.

FINANCIAL ACCOUNTING AND REPORTING

Area IV — State and Local Governments (5%–15%)

Content Group/Topic	Skill				Representative Task
	Remembering and Understanding	Application	Analysis	Evaluation	
A. STATE AND LOCAL GOVERNMENT CONCEPTS					
1. Conceptual framework	✓				Recall the purpose and characteristics of the conceptual framework for state and local governments.
2. Measurement focus and basis of accounting	✓				Recall the measurement focus and basis of accounting used by state and local governments for fund and government-wide financial reporting.
3. Purpose of funds		✓			Determine the appropriate fund(s) that a state or local government should use to record its activities.
B. FORMAT AND CONTENT OF COMPREHENSIVE ANNUAL FINANCIAL REPORT (CAFR)					
1. Government-wide financial statements	✓				Identify and recall basic concepts and principles associated with government-wide financial statements (e.g., required activities, financial statements and financial statement components).
		✓			Prepare the government-wide statement of net position for a state or local government from trial balances and supporting documentation.
		✓			Prepare the government-wide statement of activities for a state or local government from trial balances and supporting documentation.
2. Governmental funds financial statements	✓				Identify and recall basic concepts and principles associated with governmental fund financial statements (e.g., required funds, financial statements and financial statement components).
		✓			Prepare the statement of revenues, expenditures, and changes in fund balances for the governmental funds of a state or local government from trial balances and supporting documentation.
		✓			Prepare the balance sheet for the governmental funds of a state or local government from trial balances and supporting documentation.

FINANCIAL ACCOUNTING AND REPORTING

Area IV — State and Local Governments (5%–15%) Continued

Content Group/Topic	Skill				Representative Task
	Remembering and Understanding	Application	Analysis	Evaluation	
B. FORMAT AND CONTENT OF COMPREHENSIVE ANNUAL FINANCIAL REPORT (CAFR), <i>continued</i>					
3. Proprietary funds financial statements	✓				Identify and recall basic concepts and principles associated with proprietary fund financial statements (e.g., required funds, financial statements and financial statement components).
		✓			Prepare the statement of revenues, expenses and changes in fund net position for the proprietary funds of a state or local government from trial balances and supporting documentation.
		✓			Prepare the statement of net position for the proprietary funds of a state or local government from trial balances and supporting documentation.
		✓			Prepare the statement of cash flows for the proprietary funds of a state or local government.
4. Fiduciary funds financial statements	✓				Identify and recall basic concepts and principles associated with fiduciary fund financial statements (e.g., required funds, financial statements and financial statement components).
		✓			Prepare the statement of changes in fiduciary net position for the fiduciary funds of a state or local government from trial balances and supporting documentation.
		✓			Prepare the statement of net position for the fiduciary funds of a state or local government from trial balances and supporting documentation.
5. Notes to financial statements	✓				Recall the disclosure requirements for the notes to the basic financial statements of state and local governments.
6. Management's discussion and analysis	✓				Recall the objectives and components of management's discussion and analysis in the comprehensive annual financial report for state and local governments.
7. Budgetary comparison reporting	✓				Recall the objectives and components of budgetary comparison reporting in the comprehensive annual financial report for state and local governments.

FINANCIAL ACCOUNTING AND REPORTING

Area IV — State and Local Governments (5%–15%) Continued

Content Group/Topic	Skill				Representative Task
	Remembering and Understanding	Application	Analysis	Evaluation	
B. FORMAT AND CONTENT OF COMPREHENSIVE ANNUAL FINANCIAL REPORT (CAFR), continued					
8. Required supplementary information (RSI) other than Management's Discussion and Analysis	✓				Recall the objectives and components of required supplementary information other than management's discussion and analysis in the comprehensive annual financial report for state and local governments.
9. Financial reporting entity, including blended and discrete component units	✓				Recall the criteria for classifying an entity as a component unit of a state or local government and the financial statement presentation requirements (discrete or blended).
C. DERIVING GOVERNMENT WIDE FINANCIAL STATEMENTS AND RECONCILIATION REQUIREMENTS					
		✓			Prepare worksheets to convert the governmental fund financial statements to the governmental activities reported in the government-wide financial statements.
		✓			Prepare the schedule to reconcile the total fund balances and the net change in fund balances reported in the governmental fund financial statements to the net position and change in net position reported in the government-wide financial statements.
D. TYPICAL ITEMS AND SPECIFIC TYPES OF TRANSACTIONS AND EVENTS: MEASUREMENT, VALUATION, CALCULATION AND PRESENTATION IN GOVERNMENTAL ENTITY FINANCIAL STATEMENTS					
1. Net position and components thereof		✓			Calculate the net position balances (unrestricted, restricted and net investment in capital assets) for state and local governments and prepare journal entries.
2. Fund balances and components thereof		✓			Calculate the fund balances (assigned, unassigned, nonspendable, committed and restricted) for state and local governments and prepare journal entries.
3. Capital assets and infrastructure assets	✓				Identify capital assets reported in the government-wide financial statements of state and local governments.
		✓			Calculate the net general capital assets balance for state and local governments and prepare journal entries (initial measurement and subsequent depreciation and amortization).

FINANCIAL ACCOUNTING AND REPORTING

Area IV — State and Local Governments (5%–15%) Continued

Content Group/Topic	Skill				Representative Task
	Remembering and Understanding	Application	Analysis	Evaluation	
D. TYPICAL ITEMS AND SPECIFIC TYPES OF TRANSACTIONS AND EVENTS: MEASUREMENT, VALUATION, CALCULATION AND PRESENTATION IN GOVERNMENTAL ENTITY FINANCIAL STATEMENTS, continued					
4. General and proprietary long-term liabilities	✓				Identify general and proprietary long-term liabilities reported in the government-wide financial statements of state and local governments.
		✓			Calculate the total indebtedness to be reported in the government-wide financial statements of a state or local government.
		✓			Calculate the net general long-term debt balance for state and local governments and prepare journal entries (debt issuance, interest payments, issue premiums or issue discounts).
5. Interfund activity, including transfers		✓			Prepare eliminations of interfund activity in the government-wide financial statements of state and local governments.
		✓			Prepare journal entries to recognize interfund activity within state and local governments.
6. Nonexchange revenue transactions		✓			Calculate the amount of nonexchange revenue to be recognized by state and local governments using the modified accrual basis of accounting and prepare journal entries.
		✓			Calculate the amount of nonexchange revenue to be recognized by state and local governments using the accrual basis of accounting and prepare journal entries.
7. Expenditures and expenses		✓			Calculate expenditures to be recognized under the modified accrual basis of accounting (paid from available fund financial resources) for state and local governments and prepare journal entries.
		✓			Calculate expenses to be recognized under the accrual basis of accounting for state and local governments and prepare journal entries.
8. Special items	✓				Identify transactions that require presentation as special items in government-wide financial statements for state and local governments.

FINANCIAL ACCOUNTING AND REPORTING

Area IV — State and Local Governments (5%–15%) Continued

Content Group/Topic	Skill				Representative Task
	Remembering and Understanding	Application	Analysis	Evaluation	
D. TYPICAL ITEMS AND SPECIFIC TYPES OF TRANSACTIONS AND EVENTS: MEASUREMENT, VALUATION, CALCULATION AND PRESENTATION IN GOVERNMENTAL ENTITY FINANCIAL STATEMENTS, <i>continued</i>					
9. Budgetary accounting and encumbrances	✓				Recall and explain the types of budgets used by state and local governments.
		✓			Prepare journal entries to record budgets (original and final) of state and local governments.
		✓			Prepare journal entries to record encumbrances of state and local governments.

REGULATION (REG)

Summary Blueprint

Content Area Allocation	Weight
I. Ethics, Professional Responsibilities and Federal Tax Procedures	10%–20%
II. Business Law	5%–15%
III. Federal Taxation of Property Transactions	15%–25%
IV. Federal Taxation of Individuals	15%–25%
V. Federal Taxation of Entities	30%–40%

Skill Allocation	Weight
Evaluation	–
Analysis	25%–35%
Application	35%–45%
Remembering and Understanding	25%–35%

REGULATION

Area I — Ethics, Professional Responsibilities and Federal Tax Procedures (10%–20%)

Content Group/Topic	Skill				Representative Task
	Remembering and Understanding	Application	Analysis	Evaluation	
A. ETHICS AND RESPONSIBILITIES IN TAX PRACTICE					
1. Regulations governing practice before the Internal Revenue Service	✓				Recall the regulations governing practice before the Internal Revenue Service.
		✓			Apply the regulations governing practice before the Internal Revenue Service given a specific scenario.
2. Internal Revenue Code and Regulations related to tax return preparers	✓				Recall who is a tax return preparer.
	✓				Recall situations that would result in federal tax return preparer penalties.
		✓			Apply potential federal tax return preparer penalties given a specific scenario.
B. FEDERAL TAX PROCEDURES					
1. Audits, appeals and judicial process	✓				Explain the audit and appeals process as it relates to federal tax matters.
	✓				Explain the different levels of the judicial process as they relate to federal tax matters.
		✓			Identify options available to a taxpayer within the audit and appeals process given a specific scenario.
		✓			Identify options available to a taxpayer within the judicial process given a specific scenario.
2. Substantiation and disclosure of tax positions	✓				Summarize the requirements for the appropriate disclosure of a federal tax return position.
		✓			Identify situations in which disclosure of federal tax return positions is required.
		✓			Identify whether substantiation is sufficient given a specific scenario.

REGULATION

Area I — Ethics, Professional Responsibilities and Federal Tax Procedures (10%–20%) Continued

Content Group/Topic	Skill				Representative Task
	Remembering and Understanding	Application	Analysis	Evaluation	
B. FEDERAL TAX PROCEDURES, continued					
3. Taxpayer penalties	✓				Recall situations that would result in taxpayer penalties relating to federal tax returns.
		✓			Calculate taxpayer penalties relating to federal tax returns.
4. Authoritative hierarchy	✓				Recall the appropriate hierarchy of authority for federal tax purposes.
C. LEGAL DUTIES AND RESPONSIBILITIES					
1. Common law duties and liabilities to clients and third parties	✓				Summarize the tax return preparer's common law duties and liabilities to clients and third parties.
		✓			Identify situations which result in violations of the tax return preparer's common law duties and liabilities to clients and third parties.
2. Privileged communications, confidentiality and privacy acts	✓				Summarize the rules regarding privileged communications as they relate to tax practice.
		✓			Identify situations in which communications regarding tax practice are considered privileged.

REGULATION

Area II — Business Law (5%–15%)

Content Group/Topic	Skill				Representative Task
	Remembering and Understanding	Application	Analysis	Evaluation	
A. AGENCY					
1. Authority of agents and principals	✓				Recall the types of agent authority.
		✓			Identify whether an agency relationship exists given a specific scenario.
2. Duties and liabilities of agents and principals	✓				Explain the various duties and liabilities of agents and principals.
		✓			Identify the duty or liability of an agent or principal given a specific scenario.
B. CONTRACTS					
1. Formation	✓				Summarize the elements of contract formation between parties.
		✓			Identify whether a valid contract was formed given a specific scenario.
		✓			Identify different types of contracts (e.g., written, verbal, unilateral, express, implied, etc.) given a specific scenario.
2. Performance	✓				Explain the rules related to the fulfillment of performance obligations necessary for an executed contract.
		✓			Identify whether both parties to a contract have fulfilled their performance obligation given a specific scenario.

REGULATION

Area II — Business Law (5%–15%) Continued

Content Group/Topic	Skill				Representative Task
	Remembering and Understanding	Application	Analysis	Evaluation	
B. CONTRACTS, continued					
3. Discharge, breach and remedies	✓				Explain the different ways in which a contract can be discharged (e.g., performance, agreement, operation of the law, etc.)
	✓				Summarize the different remedies available to a party for breach of contract.
		✓			Identify situations involving breach of contract.
		✓			Identify whether a contract has been discharged given a specific scenario.
			✓		Identify the remedy available to a party for breach of contract given a specific scenario.
C. DEBTOR CREDITOR RELATIONSHIPS					
1. Rights, duties and liabilities of debtors, creditors and guarantors	✓				Explain the rights, duties and liabilities of debtors, creditors and guarantors.
		✓			Identify the rights, duties or liabilities of a debtors, creditors or guarantors given a specific scenario.
2. Bankruptcy and insolvency	✓				Explain the rights of the debtors and the creditors in bankruptcy and insolvency.
	✓				Summarize the rules related to the different types of bankruptcy.
	✓				Explain discharge of indebtedness in bankruptcy.
		✓			Identify the rights of the debtors and the creditors in bankruptcy and insolvency given a specific scenario.
			✓		Identify the type of bankruptcy described in a specific scenario.

REGULATION

Area II — Business Law (5%–15%) Continued

Content Group/Topic	Skill				Representative Task
	Remembering and Understanding	Application	Analysis	Evaluation	
C. DEBTOR CREDITOR RELATIONSHIPS, continued					
3. Secured transactions	✓				Explain how property can serve as collateral in secured transactions.
	✓				Summarize the priority rules of secured transactions.
	✓				Explain the requirements needed to create and perfect a security interest.
		✓			Identify the prioritized ordering of perfected security interests given a specific scenario.
		✓			Identify whether a creditor has created and perfected a security interest given a specific scenario.
D. GOVERNMENT REGULATION OF BUSINESS					
1. Federal securities regulation	✓				Summarize the various securities laws and regulations that affect corporate governance with respect to the Federal Securities Act of 1933 and the Federal Securities and Exchange Act of 1934.
		✓			Identify violations of the various securities laws and regulations that affect corporate governance with respect to the Federal Securities Act of 1933 and the Federal Securities and Exchange Act of 1934.
2. Other federal laws and regulations (e.g., employment tax, Affordable Care Act and worker classification)	✓				Summarize employment tax, Affordable Care Act and worker classification federal laws and regulations.
		✓			Identify violations of employment tax, Affordable Care Act and worker classification federal laws and regulations.

REGULATION

Area II — Business Law (5%–15%) Continued

Content Group/Topic	Skill				Representative Task
	Remembering and Understanding	Application	Analysis	Evaluation	
E. BUSINESS STRUCTURE					
1. Selection and formation of business entity and related operation and termination	✓				Summarize the processes for formation and termination of various business entities.
	✓				Summarize the nontax operational features for various business entities.
		✓			Identify the type of business entity to be formed that is best described by a given set of nontax-related characteristics.
		✓			Identify the type of business entity that is best described by a given set of nontax-related characteristics.
2. Rights, duties, legal obligations and authority of owners and management	✓				Summarize the rights, duties, legal obligations and authority of owners and management.
		✓			Identify the rights, duties, legal obligations or authorities of owners or management given a specific scenario.

REGULATION

Area III — Federal Taxation of Property Transactions (15%–25%)

Content Group/Topic	Skill				Representative Task
	Remembering and Understanding	Application	Analysis	Evaluation	
A. ACQUISITION AND DISPOSITION OF ASSETS					
1. Basis and holding period of assets		✓			Calculate the tax basis of an asset.
		✓			Determine the holding period of a disposed asset for classification of tax gain or loss.
2. Taxable and nontaxable dispositions		✓			Calculate the realized and recognized gain or loss on the disposition of assets for federal income tax purposes.
		✓			Calculate the realized gain, recognized gain and deferred gain on like-kind property exchange transactions for federal income tax purposes.
			✓		Analyze asset sale and exchange transactions to determine whether they are taxable or nontaxable.
3. Amount and character of gains and losses, and netting process (including installment sales)		✓			Calculate the amount of capital gains and losses for federal income tax purposes.
		✓			Calculate the amount of ordinary income and loss for federal income tax purposes.
		✓			Calculate the amount of gain on an installment sale for federal income tax purposes.
			✓		Review asset transactions to determine the character (capital vs. ordinary) of the gain or loss for federal income tax purposes.
			✓		Analyze an agreement of sale of an asset to determine whether it qualifies for installment sale treatment for federal income tax purposes.

REGULATION

Area III — Federal Taxation of Property Transactions (15%–25%) Continued

Content Group/Topic	Skill				Representative Task
	Remembering and Understanding	Application	Analysis	Evaluation	
A. ACQUISITION AND DISPOSITION OF ASSETS, continued					
4. Related party transactions (including imputed interest)	✓				Recall related parties for federal income tax purposes.
	✓				Recall the impact of related party ownership percentages on acquisition and disposition transactions of property for federal income tax purposes.
		✓			Calculate the direct and indirect ownership percentages of corporation stock to determine whether there are related parties for federal income tax purposes.
		✓			Calculate a taxpayer's basis in an asset that was disposed of at a loss to the taxpayer by a related party.
		✓			Calculate a taxpayer's gain or loss on a subsequent disposition of an asset to an unrelated third party that was previously disposed of at a loss to the taxpayer by a related party.
		✓			Calculate the impact of imputed interest on related party transactions for federal tax purposes.
B. COST RECOVERY (DEPRECIATION, DEPLETION AND AMORTIZATION)					
		✓			Calculate tax depreciation for tangible business property and tax amortization of intangible assets.
		✓			Calculate depletion for federal income tax purposes.
			✓		Compare the tax benefits of the Section 179 expense deduction vs. the regular tax depreciation deduction.
			✓		Reconcile the activity in the beginning and ending accumulated tax depreciation account.

REGULATION

Area III — Federal Taxation of Property Transactions (15%–25%) Continued

Content Group/Topic	Skill				Representative Task
	Remembering and Understanding	Application	Analysis	Evaluation	
C. ESTATE AND GIFT TAXATION					
1. Transfers subject to gift tax	✓				Recall transfers of property subject to federal gift tax.
	✓				Recall whether federal Form 709 — <i>United States Gift (and Generation-Skipping Transfer) Tax Return</i> is required to be filed.
		✓			Calculate the amount and classification of a gift for federal gift tax purposes.
		✓			Calculate the amount of a gift subject to federal gift tax.
2. Gift tax annual exclusion and gift tax deductions	✓				Recall allowable gift tax deductions and exclusions for federal gift tax purposes.
	✓				Recall situations involving the gift tax annual exclusion, gift-splitting and the impact on the use of the lifetime exclusion amount for federal gift tax purposes.
		✓			Compute the amount of taxable gifts for federal gift tax purposes.
3. Determination of taxable estate	✓				Recall assets includible in a decedent's estate for federal estate tax purposes.
	✓				Recall allowable estate tax deductions in a decedent's estate.
		✓			Calculate the taxable estate for federal estate tax purposes.
		✓			Calculate the gross estate for federal estate tax purposes.
		✓			Calculate the allowable estate tax deductions for federal estate tax purposes.

REGULATION

Area IV — Federal Taxation of Individuals (including tax preparation and planning strategies) (15%–25%)

Content Group/Topic	Skill				Representative Task
	Remembering and Understanding	Application	Analysis	Evaluation	
A. GROSS INCOME (INCLUSIONS AND EXCLUSIONS) (INCLUDES TAXATION OF RETIREMENT PLAN BENEFITS)					
		✓			Calculate the amounts that should be included in or excluded from an individual's gross income (including retirement plan distributions) as reported on federal Form 1040 — <i>U.S. Individual Income Tax Return</i> .
			✓		Analyze projected income for use in tax planning in future years.
			✓		Analyze client-provided documentation to determine the appropriate amount of gross income to be reported on federal Form 1040 — <i>U.S. Individual Income Tax Return</i> .
B. REPORTING OF ITEMS FROM PASS THROUGH ENTITIES					
		✓			Prepare federal Form 1040 — <i>U.S. Individual Income Tax Return</i> based on the information provided on Schedule K-1.
C. ADJUSTMENTS AND DEDUCTIONS TO ARRIVE AT ADJUSTED GROSS INCOME AND TAXABLE INCOME					
		✓			Calculate the amount of adjustments and deductions to arrive at adjusted gross income and taxable income on federal Form 1040 — <i>U.S. Individual Income Tax Return</i> .
			✓		Analyze client-provided documentation to determine the validity of the deductions taken to arrive at adjusted gross income or taxable income on federal Form 1040 — <i>U.S. Individual Income Tax Return</i> .
D. PASSIVE ACTIVITY LOSSES (EXCLUDING FOREIGN TAX CREDIT IMPLICATIONS)					
	✓				Recall passive activities for federal income tax purposes.
		✓			Calculate net passive activity gains and losses for federal income tax purposes.
		✓			Prepare a loss carryforward schedule for passive activities for federal income tax purposes.
		✓			Calculate utilization of suspended losses on the disposition of a passive activity for federal income tax purposes.

REGULATION

Area IV — Federal Taxation of Individuals (including tax preparation and planning strategies) (15%–25%) Continued

Content Group/Topic	Skill				Representative Task
	Remembering and Understanding	Application	Analysis	Evaluation	
E. LOSS LIMITATIONS					
		✓			Calculate loss limitations for federal income tax purposes for an individual taxpayer.
			✓		Analyze projections to effectively minimize loss limitations for federal income tax purposes for an individual taxpayer.
			✓		Determine the basis and the potential application of at-risk rules that can apply to activities for federal income tax purposes.
F. FILING STATUS AND EXEMPTIONS					
	✓				Recall taxpayer filing status for federal income tax purposes.
	✓				Recall relationships qualifying for personal exemptions reported on federal Form 1040 — <i>U.S. Individual Income Tax Return</i> .
		✓			Identify taxpayer filing status for federal income tax purposes given a specific scenario.
		✓			Identify the number of personal exemptions reported on federal Form 1040 — <i>U.S. Individual Income Tax Return</i> given a specific scenario.
G. COMPUTATION OF TAX AND CREDITS					
	✓				Recall and define the minimum requirements for individual federal estimated tax payments to avoid penalties.
		✓			Calculate the tax liability based on an individual's taxable income for federal income tax purposes.
		✓			Calculate the impact of tax deductions and tax credits and their effect on federal Form 1040 — <i>U.S. Individual Income Tax Return</i>

REGULATION

Area IV — Federal Taxation of Individuals (including tax preparation and planning strategies) (15%–25%) Continued

Content Group/Topic	Skill				Representative Task
	Remembering and Understanding	Application	Analysis	Evaluation	
H. ALTERNATIVE MINIMUM TAX					
	✓				Recall income and expense items includible in the computation of an individual taxpayer's alternative minimum taxable income (AMTI).
		✓			Calculate alternative minimum tax (AMT) for an individual taxpayer.

REGULATION

Area V — Federal Taxation of Entities (including tax preparation and planning strategies) (30%–40%)

Content Group/Topic	Skill				Representative Task
	Remembering and Understanding	Application	Analysis	Evaluation	
A. TAX TREATMENT OF FORMATION AND LIQUIDATION OF BUSINESS ENTITIES					
		✓			Calculate the realized and recognized gain for the owner and entity upon the formation and liquidation of business entities for federal income tax purposes.
			✓		Compare the tax implications of liquidating distributions from different business entities.
			✓		Analyze the tax advantages and disadvantages in the formation of a new business entity.
B. DIFFERENCES BETWEEN BOOK AND TAX INCOME(LOSS)					
		✓			Identify permanent vs. temporary differences to be reported on Schedule M-1 and/or M-3.
		✓			Calculate the book/tax differences to be reported on a Schedule M-1 or M-3.
		✓			Prepare a Schedule M-1 or M-3 for a business entity.
			✓		Reconcile the differences between book and taxable income (loss) of a business entity.
C. C CORPORATIONS					
1. Computations of taxable income (including alternative minimum taxable income), tax liability and allowable credits		✓			Calculate alternative minimum taxable income and alternative minimum tax for a C corporation.
		✓			Calculate taxable income and tax liability for a C corporation.
		✓			Calculate credits allowable as a reduction to regular and alternative minimum tax for a C corporation.

REGULATION

Area V — Federal Taxation of Entities (including tax preparation and planning strategies) (30%–40%) Continued

Content Group/Topic	Skill				Representative Task
	Remembering and Understanding	Application	Analysis	Evaluation	
C. C CORPORATIONS, continued					
2. Net operating losses and capital loss limitations		✓			Calculate the current-year net operating or capital loss of a C corporation.
		✓			Prepare a net operating and/or capital loss carryforward schedule for a C corporation.
			✓		Analyze the impact of the charitable contribution and/or dividends received deductions on the net operating loss calculation of a C corporation.
			✓		Analyze the impact of potentially expiring net operating and/or capital losses during tax planning for a C corporation.
3. Entity/owner transactions, including contributions, loans and distributions		✓			Calculate an entity owner's basis in C corporation stock for federal income tax purposes.
		✓			Calculate the tax gain (loss) realized and recognized by both the shareholders and the corporation on a contribution or on a distribution in complete liquidation of a C corporation for federal income tax purposes.
		✓			Calculate the tax gain (loss) realized and recognized on a nonliquidating distribution by both a C corporation and its shareholders for federal income tax purposes.
		✓			Calculate the amount of the cash distributions to shareholders of a C corporation that represents a dividend, return of capital or capital gain for federal income tax purposes.
				✓	Reconcile an owner's beginning and ending basis in C corporation stock for federal income tax purposes.
4. Consolidated tax returns	✓				Recall the requirements for filing a consolidated federal Form 1120 — <i>U.S. Corporation Income Tax Return</i>
		✓			Prepare a consolidated federal Form 1120 — <i>U.S. Corporation Income Tax Return</i>
		✓			Calculate federal taxable income for a consolidated federal Form 1120 — <i>U.S. Corporation Income Tax Return</i>

REGULATION

Area V — Federal Taxation of Entities (including tax preparation and planning strategies) (30%–40%) Continued

Content Group / Topic	Skill				Representative Task
	Remembering and Understanding	Application	Analysis	Evaluation	
C. C CORPORATIONS, continued					
5. Multijurisdictional tax issues (including consideration of local, state and international tax issues)	✓				Define the general concept and rationale of nexus with respect to multijurisdictional transactions.
	✓				Define the general concept and rationale of apportionment and allocation with respect to state and local taxation.
	✓				Explain the difference between a foreign branch and foreign subsidiary with respect to federal income taxation to a U.S. company.
	✓				Explain how different types of foreign income are sourced in calculating the foreign tax credit for federal income tax purposes.
	✓				Recall payment sources to determine federal tax withholding requirements.
			✓		Identify situations that would create nexus for multijurisdictional transactions.
			✓		Identify the federal filing requirements of cross border business investments.
			✓		Calculate the apportionment percentage used in determining state taxable income.
D. S CORPORATIONS					
1. Eligibility and election	✓				Recall eligible shareholders for an S corporation for federal income tax purposes.
	✓				Recall S corporation eligibility requirements for federal income tax purposes.
	✓				Explain the procedures to make a valid S corporation election for federal income tax purposes.
			✓		Identify situations in which S corporation status would be revoked or terminated for federal income tax purposes.

REGULATION

Area V — Federal Taxation of Entities (including tax preparation and planning strategies) (30%–40%) Continued

Content Group/Topic	Skill				Representative Task
	Remembering and Understanding	Application	Analysis	Evaluation	
D. S CORPORATIONS, continued					
2. Determination of ordinary business income/(loss) and separately stated items		✓			Calculate ordinary business income (loss) for an S corporation for federal income tax purposes.
		✓			Calculate separately stated items for an S corporation for federal income tax purposes.
				✓	Analyze both the accumulated adjustment account and the other adjustments account of an S corporation for federal income tax purposes.
				✓	Analyze the accumulated earnings and profits account of an S corporation that has been converted from a C corporation.
				✓	Analyze components of S corporation income/deductions to determine classification as ordinary business income (loss) or separately stated items on federal Form 1120S — <i>U.S. Income Tax Return for an S Corporation</i> .
3. Basis of shareholder's interest		✓			Calculate the shareholder's basis in S corporation stock for federal income tax purposes.
				✓	Analyze shareholder transactions with an S corporation to determine the impact on the shareholder's basis for federal income tax purposes.
4. Entity/owner transactions (including contributions, loans and distributions)		✓			Calculate the realized and recognized gain or loss to the shareholder of property contribution to an S corporation.
		✓			Calculate the allocation of S corporation income (loss) after the sale of a shareholder's share in the S corporation for federal income tax purposes.
				✓	Analyze the shareholder's impact of an S corporation's loss in excess of the shareholder's basis for federal income tax purposes.
				✓	Analyze the federal income tax implication to the shareholders and the S corporation resulting from shareholder contributions and loans as well as S corporation distributions and loans to shareholders.
5. Built-in gains tax	✓				Recall factors that cause a built-in gains tax to apply for federal income tax purposes.

REGULATION

Area V — Federal Taxation of Entities (including tax preparation and planning strategies) (30%–40%) Continued

Content Group/Topic	Skill				Representative Task
	Remembering and Understanding	Application	Analysis	Evaluation	
E. PARTNERSHIPS					
1. Determination of ordinary business income/(loss) and separately stated items		✓			Calculate ordinary business income (loss) for a partnership for federal income tax purposes.
		✓			Calculate separately stated items for a partnership for federal income tax purposes.
			✓		Analyze components of partnership income/deductions to determine classification as ordinary business income (loss) or separately stated items on federal Form 1065 — <i>U.S. Return of Partnership Income</i>
2. Basis of partner's interest and basis of assets contributed to the partnership		✓			Calculate the partner's basis in the partnership for federal income tax purposes.
		✓			Calculate the partnership's basis in assets contributed by the partner for federal income tax purposes.
			✓		Analyze partner contributions to the partnership to determine the impact on the partner's basis for federal income tax purposes.
3. Partnership and partner elections	✓				Recall partner elections applicable to a partnership for federal income tax purposes.
4. Transactions between a partner and the partnership (including services performed by a partner and loans)		✓			Calculate the tax implications of certain transactions between a partner and partnership (such as services performed by a partner or loans) for federal income tax purposes.
			✓		Analyze the tax implications of a partner transaction with the partnership (such as services performed by a partner or loans) to determine the impact on the partner's tax basis for federal income tax purposes.
5. Impact of partnership liabilities on a partner's interest in a partnership		✓			Calculate the impact of increases and decreases of partnership liabilities on a partner's basis for federal income tax purposes.
			✓		Analyze the impact of partnership liabilities as they relate to the general partners and limited partners for federal income tax purposes.

REGULATION

Area V — Federal Taxation of Entities (including tax preparation and planning strategies) (30%–40%) Continued

Content Group/Topic	Skill				Representative Task
	Remembering and Understanding	Application	Analysis	Evaluation	
E. PARTNERSHIPS, continued					
6. Distribution of partnership assets		✓			Calculate the realized and recognized gains (losses) by the partnership and partners of liquidating distributions from the partnership for federal income tax purposes.
		✓			Calculate the realized and recognized gains (losses) by the partnership and partners of nonliquidating distributions from the partnership for federal income tax purposes.
		✓			Calculate the partner's basis of partnership assets received in a liquidating distribution for federal income tax purposes.
		✓			Calculate the partner's basis of partnership assets received in a nonliquidating distribution for federal income tax purposes.
7. Ownership changes	✓				Recall the situations in which a partnership would be terminated for federal income tax purposes.
		✓			Calculate the allocation of partnership income (loss) after the sale of a partner's share in the partnership for federal income tax purposes.
		✓			Calculate the revised basis of partnership assets when making a Section 754 election due to a transfer of a partnership interest for federal income tax purposes.
F. LIMITED LIABILITY COMPANIES					
	✓				Recall the tax classification options for a limited liability company for federal income tax purposes.
G. TRUSTS AND ESTATES					
1. Types of trusts	✓				Recall and explain the differences between simple and complex trusts for federal income tax purposes.

REGULATION

Area V — Federal Taxation of Entities (including tax preparation and planning strategies) (30%–40%) Continued

Content Group/Topic	Skill				Representative Task
	Remembering and Understanding	Application	Analysis	Evaluation	
G. TRUSTS AND ESTATES, continued					
2. Income and deductions		✓			Calculate the total amount of income items reportable on a federal Form 1041 — <i>U.S. Income Tax Return for Estates and Trusts</i> .
		✓			Calculate the total amount of deductible expenses reportable on a federal Form 1041 — <i>U.S. Income Tax Return for Estates and Trusts</i> .
3. Determination of beneficiary's share of taxable income		✓			Calculate the beneficiary's share of taxable income from a trust for federal income tax purposes.
H. TAX EXEMPT ORGANIZATIONS					
1. Types of organizations	✓				Recall the different types of tax-exempt organizations for federal tax purposes.
2. Obtaining and maintaining tax exempt status	✓				Recall the requirements to qualify as an IRC Section 501(c)(3) tax-exempt organization.
	✓				Summarize the federal filing and disclosure requirements to obtain tax-exempt status for an organization.
	✓				Summarize the annual federal filing and disclosure requirements for a tax-exempt organization.
	✓				Explain the requirements necessary for retaining tax-exempt status.
	✓				Explain the procedures and recall the time period required to obtain tax-exempt status once the status has been revoked.
3. Unrelated business income		✓			Calculate the unrelated business income for a tax-exempt organization for federal income tax purposes.

Exposure Draft: Maintaining the Relevance of the Uniform CPA Examination

Appendix B

PRACTICE ANALYSIS

Goal of Licensure

The goal of licensure is protection of the public interest, or more specifically, providing the public with assurance that those individuals who are licensed possess a sufficient level of the knowledge and skills necessary for safe and effective practice. The qualifications for licensure generally include educational requirements, some type of supervised experience and the passing of an exam assessing the knowledge and/or skills required for competent performance (American Educational Research Association [AERA], American Psychological Association [APA], and the National Council for Measurement in Education [NCME], 2014). Some form of practice analysis is typically used as the basis for identifying and supporting the knowledge and skills necessary for competent performance (AERA, APA, & NCME, 2014 National Commission for Certifying Agencies [NCCA], 2002; Raymond & Neustel, 2006).

Practice Analysis Process

Practice or job analysis refers to a variety of systematic procedures designed to obtain descriptive information about the tasks performed on a job and/or the knowledge, skills and abilities thought necessary to perform those tasks (Arvey & Faley, 1988; Gael, 1983; Raymond & Neustel, 2006). A practice analysis is the primary mechanism for establishing the job-relatedness of decisions concerning licensure. That is, if licensure decisions can be linked directly to the outcomes of a practice analysis, they may be said to be job-related. Similarly, if the content of a licensure exam/test can be linked directly to the outcomes of a practice analysis, the test may be said to be job-related, and inferences from test scores may be supported by arguments of content validity as related to the practice analysis.

The rationale that supports the content of a licensure exam is the demonstrable linkage that exists between the exam content and the performance domain of the associated occupation or profession. Professional standards and legal precedents recommend that a practice analysis include the participation of various subject matter experts (SMEs) (Mehrens, 1987; NCCA, 2002; Raymond & Neustel, 2006) and that the information collected be representative of the diversity within the occupation (Kuehn, Stallings, & Holland, 1990). Diversity refers to regional or job context factors and to SME factors such as race or ethnicity, experience, and gender. The practice analysis conducted to define the performance domain for newly licensed CPAs was designed to be consistent with the Standards for Educational and Psychological Testing (AERA, APA, & NCME 2014); General Requirements for Bodies Operating Certification of Persons (Organization for Standardization, 2003); Standards for the Accreditation of Certification Programs (NCCA, 2002) and current professional practice.

Project Organization

The periodic execution of a practice analysis is necessary to ensure that the Exam supports the performance domain of the associated occupation and the profession's commitment to protect the public interest, remains current, relevant, reliable and legally defensible and fulfills the needs of the boards of accountancy in carrying out their licensing responsibility. The BOE provides the oversight and governance for this project.

The current practice analysis was divided into three phases: Exploration, Confirmation and Exposure (this Exposure Draft document). The Exploration and Confirmation phases are described in further detail below.

The design and development of the practice analysis was a major project that required the expertise of CPAs, psychometricians and survey design and data collection professionals. To manage this complex project, the BOE established the practice analysis sponsor group, a special committee of the BOE, to provide leadership and oversight for the practice analysis. The sponsor group members were selected to provide broad stakeholder representation and the expertise needed to ensure the success of the practice analysis. Sponsor group members included individuals from boards of accountancy staff, NASBA, the BOE, the content committee and the Psychometric Oversight Committee (POC).

The mission of the sponsor group was to ensure that the practice analysis was developed and deployed utilizing professionally sound processes, including best practices, which would result in a valid and legally defensible Exam. Throughout the project, the sponsor group reviewed the deliverables of staff and committees and requested additional information, explanation or justification such that the sponsor group was satisfied that the work was appropriate, thorough and in keeping with best practices. In this manner, the sponsor group provided oversight of this project for the BOE.

In addition to the sponsor group, the BOE and Exam staff created a larger, more widely represented practice analysis sponsor advisory group that included current and past boards of accountancy members, employers, firms and regulators (PCAOB, SEC, etc.). The advisory group also reviewed the deliverables of staff and committees and provided their input to the sponsor group and Exam staff throughout the process.

The sponsor group also relied on the content committee and POC (both represented on the sponsor group) to provide the specialized and technical knowledge the project required. The content committee has overall responsibility for the adequacy of the technical content of the Exam. It is responsible for overseeing the development of the individual sections of the Exam and the ongoing analyses to ensure that the content is reflective of newly licensed practice including approval of the section blueprints.

In their role as experts in the CPA profession, the content committee collects and evaluates data from the profession on an ongoing basis to ensure the continued relevance and quality of the Exam and credential. The practice analysis is one important process used by the content committee to fulfill this responsibility in today's rapidly changing business and financial environment. The content committee was ultimately responsible for survey content and updating the section blueprints to reflect the results of survey findings.

The POC is responsible for critical review of, and adherence to, psychometric procedures, identification of areas requiring improvement and/or research and evaluation of research and other analytical studies related to the Exam. In their role as experts in measurement theory and practice, the POC provides psychometric policy recommendations to the BOE. In fulfilling this role, the POC defines the theory and methods for the practice analysis project and evaluates the results of these analyses. The POC is responsible for research design and methodology and oversaw the research in support of the project as it progressed through all of its phases.

Ultimately, the practice analysis process culminates in approval of the next version of the Exam by the BOE.

The Exam staff managed the practice analysis on behalf of the BOE, providing professional and logistical support to the project. The names of the members of the BOE, sponsor group and sponsor advisory group, are provided in Appendix C.

Overview of the Practice Analysis Methodology

The practice analysis described in this study involved a multi-method approach including an Exploration phase and a two-pronged Confirmation phase: an invitation to comment and survey. For more information on the Exploration and Confirmation phases see the Methods section below.

METHODS

EXPLORATION PHASE - PROCESS

The Exploration phase of the practice analysis took place between January 2014 and July 2014. The goal of the Exploration phase was to obtain an understanding of the activities performed by newly licensed CPAs, to identify the knowledge and skills required to perform those activities and to ascertain which knowledge and skills are of increasing or decreasing criticality in the work of newly licensed CPAs.

Literature Review

In order to prepare for the practice analysis and to begin to develop an understanding of the direction of the profession, the Exam staff identified and reviewed certain publications evaluating recent trends in the accounting profession and highlighting competencies necessary for effective practice as a CPA in today's global business environment. The relevant publications include the AICPA's Horizon's 2025 Report and white papers from the New York and California state societies of CPAs.

Focus Groups and Interviews

CPAs were consulted to define the tasks, knowledge and skills most critical to the newly licensed CPA's role in protecting the public interest. Multiple stakeholder perspectives were obtained through the conduct of interviews and focus groups. A total of 27 structured interviews were conducted with training directors, regulators, standards setters and indirect supervisors of newly licensed CPAs. In addition, nearly 150 CPAs participated in 17 different focus groups. Stakeholders participating in the focus groups included direct supervisors of newly licensed CPAs in public accounting, newly licensed CPAs in public accounting, academics, representatives from boards of accountancy and representatives from business and industry.

A third party research firm used an interview script and a discussion guide to structure discussion during the interviews and focus groups, respectively. Discussions centered on four areas of relevance to updating the Uniform CPA Exam:

- The tasks performed by newly licensed CPAs that are critical to the protection of the public interest.
- The knowledge and skill sets that contribute to the performance of those tasks.
- Areas of strengths and weaknesses among newly licensed CPAs.
- Predicted changes in practice as the profession moves into the future and expanded areas of responsibility for newly licensed CPAs.

EXPLORATION PHASE – RESULTS

The literature review clearly showed that the accounting profession is changing and becoming increasingly complex. Multiple forums have identified very similar, if not exact, challenges facing the profession today and into the future including the need for critical thinking, problem solving skills, professional skepticism, communication skills, technology skills and a strong understanding of professional responsibilities. The insight gathered through the review of the literature helped guide the Exam staff's thinking when structuring the subsequent research identified below.

Input from the interviews and focus groups identified a consistent set of knowledge and skills that is currently considered necessary for newly licensed CPAs to protect the public interest. The areas identified include:

Critical Thinking, Problem Solving, Analytical Ability, Professional Skepticism and Adaptability

The rapid pace of change in our profession and the marketplace, the increasing globalization of business and the continued outsourcing of routine, non-complex tasks (which accounting professionals typically performed early in their careers) have introduced challenges to newly licensed CPAs. The result for newly licensed CPAs is a shift from preparing routine, non-complex tasks to reviewing these tasks.

Technology use continues to change the nature of the work that newly licensed CPAs perform, making them responsible for more complex tasks earlier in their careers. As a result, newly licensed CPAs must demonstrate higher order skills such as critical thinking, problem solving, analytical ability and skepticism more frequently. It is critically important that newly licensed CPAs are competent in recognizing issues, identifying errors, challenging assumptions and applying both professional judgment and skepticism.

A Strong Understanding of the Business Environment and Processes

Not only must a newly licensed CPA be technically competent, but that individual must also demonstrate a keen understanding of the overall business environment. Newly licensed CPAs demonstrate knowledge of economics, corporate governance and information technology and must be able to apply that knowledge in financial and operations management as well as in strategic planning. Additionally, a newly licensed CPA must understand business processes and transactions and have the ability to apply that knowledge when performing professional services. An example of this skill is identifying the strengths and deficiencies in internal control processes.

Effective Communication Skills

To meet the needs of the expanding business world, effective communication skills are important to being a CPA. Newly licensed CPAs are expected to demonstrate listening skills and should have a questioning mind and the ability to ask follow-up questions, when necessary, to provide supportable and logical responses. In addition, they should be able to effectively document the work that they have performed and the conclusions that were reached.

Well-Developed Research Skills

Given the increasing volume of domestic and international standards, rules and regulations, research has shown that well-developed research skills are becoming more important to practice than the memorization of facts. Newly licensed CPAs should be able to demonstrate capability in researching the appropriate authoritative literature in order to solve unfamiliar problems and form appropriate conclusions.

Ability to Analyze Data

Newly licensed CPAs are expected to be competent in data collection and analysis to recognize unusual patterns and detect errors. These CPAs should be able to discern missing or incomplete information and differentiate between relevant and irrelevant information.

Ethics and Professional Responsibilities

To protect the public interest, it is critically important that newly licensed CPAs have a thorough understanding of their professional and ethical responsibilities as CPAs. Not only must they understand the ethics and independence rules governing the practice of the profession, CPAs must also demonstrate an ability to apply an ethical conceptual framework in their decision-making.

The findings from the Exploration phase were incorporated into the Confirmation phase reported below.

CONFIRMATION PHASE

The Confirmation phase was divided into two specific components, an Invitation to Comment and a Survey, which are discussed in detail below.

Invitation to Comment

In September 2014, the AICPA issued an invitation to comment, “*Maintaining the Relevance of the Uniform CPA Exam*,” to explore changes in the CPA profession and request feedback on possible changes to the next version of the Exam. The invitation to comment asked stakeholders to comment on possible changes to how content is tested on the CPA Exam.

Items highlighted for consideration in the invitation to comment included Exam length, types of questions, number and structure of test sections, writing skill assessment, more realism in TBSs, an integrated exam section, testing fees and score reporting timelines. Responses to the invitation to comment were used to inform the test structure and test design contained in this document.

The BOE reviewed the results of the invitation to comment with the Exam staff and provided direction and thought leadership on these key areas: overall Exam structure, assessment of written communication skills, the use of simulations to test higher order skills, the possibility of an integrative section as explored in the invitation to comment, simulation realism (adding audio and video to the Exam), time allocation and scoring weights, the use of Microsoft Excel on the Exam and the test administration model. The feedback received to the invitation to comment was made available to the entire profession through posting on the AICPA website ([Invitation to Comment Results: *Maintaining the Relevance of the Uniform CPA Examination*](#)).

Survey and Blueprints

In addition to the invitation to comment, Exam staff used the Exploration phase research to prepare blueprints, or detailed outlines, for each of the existing Exam sections that assess both the content and the skill levels associated with that content. Approximately 700 representative tasks were identified that aligned content and related skills required by newly licensed CPAs; staff worked closely with each of the four Exam section subcommittees on the development of the task statements. A task statement represents the action a practitioner would do given the combination of content, knowledge and skills in the context of the work of a newly licensed CPA. These task statements became the focus of a broad survey of newly licensed CPAs and direct supervisors of newly licensed CPAs, which was completed in January 2015.

In creating the task statements, Exploration phase findings were integrated with CPA’s professional judgment. The main focus of each survey statement was to ensure that a CPA, independent of the AICPA and the practice analysis process, was able to read and understand the statement as intended and therefore provide a rating addressing the frequency and criticality of the task, i.e., how critical is competent performance of this task by newly licensed CPAs to their role in protecting the public interest. Two populations were asked to rate the frequency and criticality of a sample of approximately 700 representative task statements: 1,477 direct supervisors of newly licensed CPAs and 656 newly licensed CPAs rated the representative task statements.

Survey participation invitations were extended to the majority of members of AICPA and other licensees supplied by boards of accountancy through NASBA. The databases used to sample survey participants represented a significant portion of all licensed CPAs. After screening for eligibility, surveys were completed by nearly 2,200 CPAs, as noted above.

The demographic results for the survey for each of the target populations represented a range of firm sizes, practice areas and regions of the country. Additionally, the demographic results represented a reasonable

distribution of ethnicity and gender. To achieve this wide representation of the CPA profession, NASBA and AICPA worked closely together leveraging both NASBA's Accountancy Licensure Database (ALD) and AICPA's member database.

Based on the results of the survey, Exam staff recommended changes to the section blueprints. Task statements that rated low in both frequency and criticality were flagged for review by Exam staff and the four Exam section subcommittees. Additionally, statements that rated high in criticality and low in frequency, and vice versa, were flagged for review. Ultimately, Exam staff and the four Exam section subcommittees used the results of the survey and their professional judgment when making the final determination for inclusion in a section blueprint.

The recommended changes were discussed with each of the four Exam section subcommittees who either accepted or modified staff's proposed changes to the blueprint and associated content weightings. The subcommittees approved each blueprint, which were subsequently approved by the Content Committee and the BOE.

The section blueprints will replace the current Content Specification Outline and Skills Specification Outline by combining the content, skill and context into one document. The blueprint outlines the content to be tested, the associated skill level to be tested and the representative tasks a newly licensed CPA would need to perform to be considered competent. The blueprints are informative to candidates, educators, item writers and others about the content and skills that will be tested on the Exam and provide assurance that the Exam is properly designed to test such knowledge, skills and tasks.

The tasks in the blueprints are representative and are not intended to be, nor should they be viewed as, an all-inclusive list of tasks that may be tested on the Exam. It also should be noted that the number of tasks associated with a particular content group or topic is not indicative of the extent such content group, topic or skill will be assessed on the Exam.

Exposure Draft: Maintaining the Relevance of the Uniform CPA Examination

Appendix C

Board of Examiners

Frederick (Rick) Niswander (Chair)
Barry Berkowitz
Allan Cohen
Michael Daggett
Stephen C. (Steve) Del Vecchio
Damon Desue
Kadriye Ercikan
Russ Friedewald
Bucky Glover
Jeffrey Hoops
Kristine Hull
Gary Lubin
Leslie Mostow
Roberta Newhouse
Gina Pruitt
Mark D. Shermis
Amy Sutherland
Thomas Winkler

Practice Analysis Sponsor Group

Frederick (Rick) Niswander
Jimmy Corley
Michael Daggett
Mari DeVries
Jacqueline Leighton
Wendy Perez
Amy Sutherland

Practice Analysis Sponsor Advisory Group

Lisa Cines (Chair)
Russell Bates
Martin Baumann
Michael Becker
Brian Croteau
Ekaterina Dizna
Dan Dustin
Troy Janes
Mathew Liegel
Rick Reisig
Doug Skiles
Art Winstead
Jon Zavislak

Exposure Draft: Maintaining the Relevance of the Uniform CPA Examination

Appendix D

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Attachment 2

California Board of Accountancy Regulation Section 7.1

§ 7.1. Credit Status for the Computerized Uniform CPA Examination.

(a) Upon the commencement of computer-based testing in California, an applicant may sit for the four sections of the computer-based Uniform Certified Public Accountant Examination individually and in any order. An applicant who fails to pass any section of the examination may retake that section. When the applicant has credit for all four sections of the examination within an 18-month period as defined in subsection (b), the applicant shall be considered to have passed the examination.

(b) Except as provided in subsections (c) and (d), an applicant shall retain credit for any section the applicant has passed for an 18-month period beginning with the date that the section of the exam was passed. At the end of the 18-month period, credit for that section expires, and that section must be re-taken and passed to re-establish credit.

(c) A first-time applicant who passes any section of the computer-based Uniform Certified Public Accountant Examination during the six months immediately following commencement of computer-based testing in California shall retain credit for that section for a 24-month period beginning with the date the section of the exam was passed. At the end of the 24-month period, credit for that section expires. The section may be re-taken pursuant to subsection (b) of this section.

(d) A candidate may sit for any unpassed section of the examination only one time during each testing window. A testing window is a three-month period as determined by the American Institute of Certified Public Accountants during which applicants may take the exam. There are four three-month testing windows in a year. To allow for routine maintenance, the exam may be unavailable for up to one month during each testing window.

(e) Credit for passed examination sections may be extended by the Board because the applicant was prevented from sitting for an unpassed section or sections before credit for passed sections expired pursuant to subsections (b) or (c) because of one of the following events:

(1) Death of an immediate family member. Documentation, such as a copy of the death certificate, must be submitted.

(2) Catastrophic illness, contagious disease, or major traumatic injury to the candidate or immediate family member (spouse, child or parent). Submit an original letter on letterhead from the physician, which includes the date(s), nature of the illness, and the physician's signature.

(3) Natural disaster (earthquake, flood, fire, etc.).

(4) Non-issuance of visa for travel to the U.S. Documentation, such as an official letter from the U.S. Embassy or a copy of the passport indicating a visa was requested, must be submitted.

(5) Other good cause.

NOTE: Authority cited: Section 5010, Business and Professions Code. Reference: Sections 5081, 5082, 5082.1, 5082.2, 5092 and 5093, Business and Professions Code.



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Attachment 3

California Board of Accountancy Regulation Section 8.2

§ 8.2. Requirements for Issuance of the Authorization to Test.

- (a) An application for an Authorization to Test (ATT) for the computer-based Uniform CPA Examination pursuant to Section 8.1 must be complete including the candidate's name, application date, date of birth, address, telephone number, summary of education, the appropriate fees pursuant to Section 70, and a signature (or the electronic equivalent) authorizing the release of application information to the National Association of State Boards of Accountancy and the designated exam administrator. The application must also specify the section(s) of the exam the applicant is applying to take. First-time applicants must also provide official transcripts and/or foreign evaluations pursuant to Section 9.2.
- (b) An applicant shall not have more than one open ATT for any section of the examination at the same time. At the time of application and during the time any ATT issued by the California Board of Accountancy is open, the applicant shall not have an open ATT for the same section in any other state or jurisdiction.
- (c) The applicant shall not apply to take, or take, any section or sections of the examination for which the applicant holds unexpired credit pursuant to Section 7.1, with the following exception: An applicant for reissuance who does not currently hold a Certified Public Accountant license in another jurisdiction may retake the examination pursuant to Section 37 of these regulations.
- (d) The applicant shall certify at the time of application that he or she is in compliance with subsections (b) and (c). Falsifying this certification; or including any false, fraudulent, or materially misleading statements on the application for the examination; or including any material omission on the application for the examination shall be cause for action by the Board pursuant to Business and Professions Code 5110.
- (e) Except for a CPA who is required to take specified sections of the examination pursuant to a disciplinary action of the Board, no CPA shall apply to take, or take, any section of the Uniform Certified Public Accountant Examination. A CPA who fails to comply with this requirement shall be subject to disciplinary action by the Board.

NOTE: Authority cited: Section 5010, Business and Professions Code. Reference: Sections 5081, 5082, 5082.1, 5082.2, 5092, 5093 and 5131, Business and Professions Code.



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CBA Item I.D.
November 19, 2015

2016 California Board of Accountancy Member Committee Interest Survey

Presented by: Jose A. Campos, CPA, President

Consumer Protection Objectives

The purpose of this agenda item is to seek California Board of Accountancy (CBA) member interest in serving on, or as a liaison to, a CBA committee in 2016. The CBA committees serve in an advisory capacity to assist the CBA with considering various issues relating to public accountancy, which allows the CBA to continue its mission of consumer protection.

Action(s) Needed

It is requested that CBA members who wish to be appointed or maintain current appointment to a committee, indicate such interest on the CBA Member Committee Interest Survey (**Attachment 1**) and submit it to the Board Relations Analyst, Corey Riordan, by Friday, December 4, 2015.

Background

Shortly following the annual officer elections in November, the incoming CBA President reviews the results of the surveys and determines CBA committee appointments as necessary. Appointments to the CBA committees are effective the first day of January, the following year.

Comments

The CBA has the following statutorily mandated committees, which require a CBA member to serve in a liaison capacity:

- Qualifications Committee
- Enforcement Advisory Committee

The CBA has the following standing committees, which meet regularly in conjunction with CBA meetings and requires CBA member participation in order to carry out its function:

- Committee on Professional Conduct
- Enforcement Program Oversight Committee
- Legislative Committee

2016 California Board of Accountancy Member Committee Interest Survey

Page 2 of 2

- Strategic Planning Committee

The intent of both the statutorily mandated and standing committees is to serve in an advisory capacity to the CBA. Detailed information regarding the CBA committees is included as **Attachment 2**.

Fiscal/Economic Impact Considerations

There are no fiscal/economic impact considerations.

Recommendation

Staff do not have a recommendation on this agenda item.

Attachments

1. CBA Member Committee Interest Survey
2. CBA Member Guidelines and Procedures Manual, Section II.B.



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Attachment 1

CBA Member Committee Interest Survey

I, _____, would like to participate in the following committees for the upcoming year.

___ Committee on Professional Conduct (CPC)

The purpose of the CPC is to assist the CBA in consideration of issues relating to professional conduct by:

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

___ Enforcement Program Oversight Committee (EPOC)

The purpose of the EOPC is to assist the CBA in the consideration of issues relating to professional conduct by:

- Reviewing policy issues relating to the Enforcement Program.
- Overseeing the program's compliance with CBA policies by way of performing periodic internal audits.

___ Legislative Committee (LC)

The purpose of the LC is to assist the CBA in its activities by:

- Reviewing, recommending, and advancing legislation relating to the practice of public accountancy.
- Coordinating the need for and use of CBA members to testify before the Legislature.

___ Strategic Planning Committee (SPC)

The purpose of the SPC is to assist the CBA in its activities by:

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

___ Liaison to the Enforcement Advisory Committee (EAC)

___ Liaison to the Qualifications Committee (QC)

CBA members acting as Liaisons to committees are responsible for keeping the CBA informed regarding emerging issues and policy recommendations made at the committee level. Conversely, Liaisons keep the committee informed of CBA policies and assignments. Liaisons additionally will evaluate committee chairs, vice-chairs, and members for whom they have specific knowledge of their performance, and report to the CBA President and Vice-President as required.

___ I would be interested in serving on other ad hoc committees or task forces as needed.

California Board of Accountancy

CBA Member

Guidelines and Procedures Manual

CALIFORNIA BOARD OF
ACCOUNTANCY

Updated
June 2015



SECTION II.

CBA COMMITTEES AND TASK FORCES

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

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

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

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

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

A. STATUTORY COMMITTEES (Ref. Business & Professions Code §§ 5020, 5023, 5024, and 5096.21).

1. Enforcement Advisory Committee (EAC).

a. Purpose.

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

- Serving in a technical advisory capacity to the Executive Officer and the Enforcement Program. The EAC members may participate in investigative

hearings along with staff investigators; counsel from the Attorney General's Office and where appropriate, outside counsel.

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

b. Membership.

The EAC is comprised of up to 13 licensees.

c. Meetings/Minutes.

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

2. Peer Review Oversight Committee (PROC)

a. Purpose.

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

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

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

b. Membership.

The PROC is comprised of 7 licensees.

c. Meetings/Minutes.

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

3. Qualifications Committee (QC)

a. Purpose.

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

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

b. Membership.

The QC is comprised of 16 licensees.

c. Meetings/Minutes.

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

4. Mobility Stakeholder Group.

a. Purpose.

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

b. Membership.

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

c. Meetings/Minutes.

All meetings of the MSG are subject to the Bagley-Keene Open Meeting Act. The MSG chooses locations that are ADA compliant and easily accessible to the public, applicants, and licensees. The MSG will alternate its meeting locations between Northern California and Southern California to facilitate participation by the public and its licensees. The CBA also recognizes its responsibility regarding the public's concern for the judicious use of public funds when choosing meeting facilities and overnight accommodations. Minutes will be prepared from the meeting, and presented to the CBA for acceptance.

5. Other Committees.

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

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

1. Committee on Professional Conduct (CPC).

a. Purpose.

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

- Considering and developing recommendations on issues that apply to the practice of public accountancy and affect consumers.
- Considering, formulating, and proposing policies and procedures related to emerging and unresolved issues.

- Reviewing selected exposure drafts and developing recommendations to present to the CBA.

b. Membership.

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

c. Meetings/Minutes.

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

2. Enforcement Program Oversight Committee (EPOC).

a. Purpose.

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

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

b. Membership.

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

c. Meetings/Minutes.

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

3. Legislative Committee (LC).

a. Purpose.

To assist the CBA in its activities by:

- Reviewing, recommending, and advancing legislation relating to consumer protection and the practice of public accountancy.
- Coordinating the need for and use of CBA members to testify before the Legislature.

b. Membership.

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

c. Meetings/Minutes.

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

4. Strategic Planning Committee (SPC).

a. Purpose.

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

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

b. Membership.

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

c. Meetings/Minutes.

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

5. Task Forces.

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

6. National Committees.

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

MEMORANDUM

DATE: November 3, 2015

ATTENTION: Board Members, California Board of Accountancy

SUBJECT: Presentation and Discussion Regarding February 2015 US Supreme Court Decision: North Carolina State Board of Dental Examiners v. FTC, related opinion from the office of the Attorney General, FTC staff Guidance and Legislative Hearings

FROM: Kristy Schieldge, Attorney III, DCA

BACKGROUND:

On February 25, 2015, the U. S. Supreme Court rendered a decision in North Carolina State Board of Dental Examiners v. Federal Trade Commission (**Attachment 1**) that is causing licensing boards across the nation to evaluate their structure and how they make policy decisions effecting market participants. This is an antitrust case about the scope and applicability of the state-action immunity doctrine to professional state boards. Specifically, when is a state board's actions protected from Sherman Act (federal anti-trust or competition law) regulation under the doctrine of state-action anti-trust immunity?

It is important to understand the facts that led to this case being filed by the Federal Trade Commission (FTC). The North Carolina Board of Dental Examiners is comprised of a majority of practicing dentists (6 licensed dentists, 1 dental hygienist, and 1 consumer). The 6 licensed members were elected to this board by other dentists (market participants) and not by the state's legislature or Governor; there was no state mechanism for the removal of board members from office. The dental board pursued non-dentist teeth whiteners by sending them warning letters and cease-and-desist letters claiming that they were engaged in the unauthorized practice of dentistry. As a result, non-dentist teeth whiteners stopped offering these services in North Carolina. However, the North Carolina statutes and regulations did not specifically address whether teeth whitening was the practice of dentistry. The board also did not seek to promulgate a regulation addressing teeth whitening. Additionally, the board did not have statutory authority to issue cease and desist letters to unlicensed persons.

The FTC determined that the dental board's actions violated the federal antitrust law and sued the board. The dental board argued that its actions did not violate the law, because it is a state agency and is therefore immune from antitrust law (also known as the "state action anti-trust immunity doctrine"). The case progressed all the way to the U.S. Supreme Court,

which held that a state board on which a “controlling number” of decision makers are active market participants in the occupation which the board regulates must satisfy “active supervision” requirements to get antitrust state-action immunity.

For boards consisting of a controlling number of market participants, the defensibility of their actions is going to turn on whether the state’s review mechanisms provide “realistic assurance” that the boards’ anticompetitive conduct promotes state policy, rather than merely the market participants’ individual interest. The Court identified a few constant requirements of active supervision: 1) The supervisor must review the substance of the anticompetitive decision, not merely the procedures followed to produce it; 2) The supervisor must have the power to veto or modify particular decisions to ensure they accord with state policy; 3) The mere potential for state supervision is not an adequate substitute for a decision by the state; and 4) the state supervisor may not itself be an “active market participant”.

The Court further held that inquiry regarding active supervision is flexible and context-dependent; it is not meant to require daily involvement in a board’s operations or micromanagement of its every decision.

ATTORNEY GENERAL’S OPINION

This case prompted California Senator Jerry Hill to request an opinion from the Attorney General (AG) (**Attachment 2**) as to what constitutes “active state supervision” of state licensing boards, and how to guard against antitrust liability for board members.

Overview of Conclusions

In short, the AG’s opinion stated the following:

“Active state supervision” requires a state official to review the substance of a regulatory decision made by a state licensing board, in order to determine whether the decision actually furthers a clearly articulated state policy to displace competition with regulation in a particular market. The official reviewing the decision must not be an active member of the market being regulated, and must have and exercise the power to approve, modify, or disapprove the decision.

AG Opinion No. 15-402, at p. 1.

The AG’s opinion identified some broad areas of operation where board members can act

with reasonable confidence of preserving their state action immunity:

1. Promulgation of regulations, in light of the public notice, written justification, DCA Director's review, and review by the Office of Administrative Law pursuant to the Administrative Procedure Act. Please note that market-sensitive regulations will require more active supervision than others.
2. Disciplinary decisions, in light of the due process procedures in place; participation of state actors, such as board executive directors, investigators, prosecutors, and administrative law judges; and the availability of judicial (administrative mandamus) review.
3. Carrying out the actions required by a detailed anticompetitive statutory scheme, because, "detailed legislation leaves nothing for the state to supervise, and thus it may be said that the legislation itself satisfies the supervision requirement."
4. The adoption of safety standards that are based on objective expert judgments, because they have been found by the courts to be pro-competitive, rather than anti-competitive. *Id.*, at pp. 8-9.

Board Composition

Although identified as an option, the AG advised that changing the composition of the boards to decrease the number of market-participant board members would not necessarily shield board members from antitrust liability. The AG pointed out that the U.S. Supreme Court did not use the term "majority;" it used "controlling number." There are several unresolved questions regarding how changing the board composition would impact antitrust liability. As long as these questions remain unresolved, radical changes to the board make up would likely create new challenges, with no promise of bolstering state-action immunity. *Id.*, at pp. 10-11.

Increasing Active State Supervision

With regard to options for increasing state supervision of board actions, the AG suggested the powers of the Director of the Department of Consumer Affairs could be expanded to make review of anti-competitive board decisions mandatory, or to make the Director's review available upon the request of a board.

Moreover, statutory changes would need to be considered to prevent the Director's disapproval from being overridden by the board pursuant to Business and Professions Code section 313.1(e)(3)¹, because such an override would nullify the "active supervision" and the benefit of state-action immunity gained by the Director's review. Id., at p. 14.

Legislation Granting Immunity to Board Members

The AG pointed out that a state cannot grant blanket immunity for anticompetitive activity; there would probably still have to be active state supervision to give effect to the intended immunity. Id., at p. 15.

Indemnification of Board Members

Board members are generally entitled to have the state provide for the defense of any civil action stemming from an act or omission in the scope of employment. While the state does not have to provide a defense in cases where the board member acted due to actual fraud, corruption, or actual malice, there is no exception to the duty to defend for antitrust violations. Id., at p. 16.

In general, the government is liable for injuries caused by an act within the scope of employment, but is not liable for punitive damages. If an antitrust violation is proven, an award of treble damages is automatic. There is a question as to whether treble damages equates to punitive damages that would not be paid by the state, but by the individual or individuals who were found to have taken the anti-competitive action. The AG opined that treble damages are not the same as punitive damages, and should be paid by the state, if awarded. Id., at pp. 16-17.

The question about the legal status of treble damage awards could be resolved with a legislative change "to specify that treble damage antitrust awards are not punitive damages within the meaning of the Government Claims Act." This change would act as reassurance to board members that if an antitrust violation is proven, the state, and not the individual board members, will pay for the compensatory, general, and treble damages. Id., at p. 17.

¹ Section 313.1(e)(3) provides: "(3) If the director disapproves a rule or regulation, it shall have no force or effect unless, within 60 days of the notice of disapproval, (A) the disapproval is overridden by a unanimous vote of the members of the board, commission, or committee, and (B) the board, commission, or committee files the final rulemaking record with the Office of Administrative Law in compliance with this section and the procedures required by Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code."

Training

Finally, the AG advised that the potential for board member liability may be significantly reduced by providing training on antitrust concepts so that there is a shared awareness of the sensitivity of certain kinds of actions. Such training will prepare board members to be able to harness the evidence and articulate the reasons for their decisions in market-sensitive areas. Id., at p. 18.

FTC Guidance

The Federal Trade Commission issued staff guidance (**Attachment 3**) to assist states in understanding antitrust issues in the wake of the *North Carolina* case. Like the Attorney General, the FTC has indicated that a lack of immunity does not mean that a board's conduct violates antitrust laws, ministerial acts implementing an anticompetitive statutory scheme do not give rise to antitrust liability, and reasonable restraints on competition do not necessarily violate antitrust laws even if the economic interests of a competitor have been injured.

The FTC staff guidance indicates that active market participants include any person licensed by the board, and that a person who temporarily suspends active participation to serve on a board regulating his or her former profession will be considered an active market participant. The FTC guidance, like the Attorney General's opinion, indicates that the controlling number of active market participants implicates the need for active state supervision, not simply a majority of board members. The FTC guidance states "A decision that is controlled, either as a matter of law, procedure, or fact, by active participants in the regulated market...must be actively supervised to be eligible for the state action defense."

REQUESTED ACTION:

Review the attached United States Supreme Court decision, Attorney General's Opinion and FTC staff guidance document regarding the U. S. Supreme Court case of North Carolina State Board of Dental Examiners v. Federal Trade Commission, which provides an analysis of what constitutes "active state supervision" of licensing boards to preserve state action immunity, and discusses the measures to consider taking to protect against claims of antitrust conduct for board members. Updates regarding recent or anticipated legislative hearings will be discussed at the Board meeting.

Attachments

1. US Supreme Court Decision
2. Opinion of the Office of Attorney General
3. Federal Trade Commission Staff Guidance

(Slip Opinion)

OCTOBER TERM, 2014

1

Syllabus

NOTE: Where it is feasible, a syllabus (headnote) will be released, as is being done in connection with this case, at the time the opinion is issued. The syllabus constitutes no part of the opinion of the Court but has been prepared by the Reporter of Decisions for the convenience of the reader. See *United States v. Detroit Timber & Lumber Co.*, 200 U. S. 321, 337.

SUPREME COURT OF THE UNITED STATES

Syllabus

**NORTH CAROLINA STATE BOARD OF DENTAL
EXAMINERS v. FEDERAL TRADE COMMISSION****CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR
THE FOURTH CIRCUIT**

No. 13–534. Argued October 14, 2014—Decided February 25, 2015

North Carolina’s Dental Practice Act (Act) provides that the North Carolina State Board of Dental Examiners (Board) is “the agency of the State for the regulation of the practice of dentistry.” The Board’s principal duty is to create, administer, and enforce a licensing system for dentists; and six of its eight members must be licensed, practicing dentists.

The Act does not specify that teeth whitening is “the practice of dentistry.” Nonetheless, after dentists complained to the Board that nondentists were charging lower prices for such services than dentists did, the Board issued at least 47 official cease-and-desist letters to nondentist teeth whitening service providers and product manufacturers, often warning that the unlicensed practice of dentistry is a crime. This and other related Board actions led nondentists to cease offering teeth whitening services in North Carolina.

The Federal Trade Commission (FTC) filed an administrative complaint, alleging that the Board’s concerted action to exclude nondentists from the market for teeth whitening services in North Carolina constituted an anticompetitive and unfair method of competition under the Federal Trade Commission Act. An Administrative Law Judge (ALJ) denied the Board’s motion to dismiss on the ground of state-action immunity. The FTC sustained that ruling, reasoning that even if the Board had acted pursuant to a clearly articulated state policy to displace competition, the Board must be actively supervised by the State to claim immunity, which it was not. After a hearing on the merits, the ALJ determined that the Board had unreasonably restrained trade in violation of antitrust law. The FTC again sustained the ALJ, and the Fourth Circuit affirmed the FTC in

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all respects.

Held: Because a controlling number of the Board’s decisionmakers are active market participants in the occupation the Board regulates, the Board can invoke state-action antitrust immunity only if it was subject to active supervision by the State, and here that requirement is not met. Pp. 5–18.

(a) Federal antitrust law is a central safeguard for the Nation’s free market structures. However, requiring States to conform to the mandates of the Sherman Act at the expense of other values a State may deem fundamental would impose an impermissible burden on the States’ power to regulate. Therefore, beginning with *Parker v. Brown*, 317 U. S. 341, this Court interpreted the antitrust laws to confer immunity on the anticompetitive conduct of States acting in their sovereign capacity. Pp. 5–6.

(b) The Board’s actions are not cloaked with *Parker* immunity. A nonsovereign actor controlled by active market participants—such as the Board—enjoys *Parker* immunity only if “‘the challenged restraint . . . [is] clearly articulated and affirmatively expressed as state policy,’ and . . . ‘the policy . . . [is] actively supervised by the State.’” *FTC v. Phoebe Putney Health System, Inc.*, 568 U. S. ___, ___ (quoting *California Retail Liquor Dealers Assn. v. Midcal Aluminum, Inc.*, 445 U. S. 97, 105). Here, the Board did not receive active supervision of its anticompetitive conduct. Pp. 6–17.

(1) An entity may not invoke *Parker* immunity unless its actions are an exercise of the State’s sovereign power. See *Columbia v. Omni Outdoor Advertising, Inc.*, 499 U. S. 365, 374. Thus, where a State delegates control over a market to a nonsovereign actor the Sherman Act confers immunity only if the State accepts political accountability for the anticompetitive conduct it permits and controls. Limits on state-action immunity are most essential when a State seeks to delegate its regulatory power to active market participants, for dual allegiances are not always apparent to an actor and prohibitions against anticompetitive self-regulation by active market participants are an axiom of federal antitrust policy. Accordingly, *Parker* immunity requires that the anticompetitive conduct of nonsovereign actors, especially those authorized by the State to regulate their own profession, result from procedures that suffice to make it the State’s own. *Midcal*’s two-part test provides a proper analytical framework to resolve the ultimate question whether an anticompetitive policy is indeed the policy of a State. The first requirement—clear articulation—rarely will achieve that goal by itself, for entities purporting to act under state authority might diverge from the State’s considered definition of the public good and engage in private self-dealing. The second *Midcal* requirement—active supervision—seeks to avoid this

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harm by requiring the State to review and approve interstitial policies made by the entity claiming immunity. Pp. 6–10.

(2) There are instances in which an actor can be excused from *Midcal's* active supervision requirement. Municipalities, which are electorally accountable, have general regulatory powers, and have no private price-fixing agenda, are subject exclusively to the clear articulation requirement. See *Hallie v. Eau Claire*, 471 U. S. 34, 35. That *Hallie* excused municipalities from *Midcal's* supervision rule for these reasons, however, all but confirms the rule's applicability to actors controlled by active market participants. Further, in light of *Omni's* holding that an otherwise immune entity will not lose immunity based on ad hoc and *ex post* questioning of its motives for making particular decisions, 499 U. S., at 374, it is all the more necessary to ensure the conditions for granting immunity are met in the first place, see *FTC v. Ticor Title Ins. Co.*, 504 U. S. 621, 633, and *Phoebe Putney, supra*, at _____. The clear lesson of precedent is that *Midcal's* active supervision test is an essential prerequisite of *Parker* immunity for any nonsovereign entity—public or private—controlled by active market participants. Pp. 10–12.

(3) The Board's argument that entities designated by the States as agencies are exempt from *Midcal's* second requirement cannot be reconciled with the Court's repeated conclusion that the need for supervision turns not on the formal designation given by States to regulators but on the risk that active market participants will pursue private interests in restraining trade. State agencies controlled by active market participants pose the very risk of self-dealing *Midcal's* supervision requirement was created to address. See *Goldfarb v. Virginia State Bar*, 421 U. S. 773, 791. This conclusion does not question the good faith of state officers but rather is an assessment of the structural risk of market participants' confusing their own interests with the State's policy goals. While *Hallie* stated "it is likely that active state supervision would also not be required" for agencies, 471 U. S., at 46, n. 10, the entity there was more like prototypical state agencies, not specialized boards dominated by active market participants. The latter are similar to private trade associations vested by States with regulatory authority, which must satisfy *Midcal's* active supervision standard. 445 U. S., at 105–106. The similarities between agencies controlled by active market participants and such associations are not eliminated simply because the former are given a formal designation by the State, vested with a measure of government power, and required to follow some procedural rules. See *Hallie, supra*, at 39. When a State empowers a group of active market participants to decide who can participate in its market, and on what terms, the need for supervision is manifest. Thus,

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the Court holds today that a state board on which a controlling number of decisionmakers are active market participants in the occupation the board regulates must satisfy *Midcal's* active supervision requirement in order to invoke state-action antitrust immunity. Pp. 12–14.

(4) The State argues that allowing this FTC order to stand will discourage dedicated citizens from serving on state agencies that regulate their own occupation. But this holding is not inconsistent with the idea that those who pursue a calling must embrace ethical standards that derive from a duty separate from the dictates of the State. Further, this case does not offer occasion to address the question whether agency officials, including board members, may, under some circumstances, enjoy immunity from damages liability. Of course, States may provide for the defense and indemnification of agency members in the event of litigation, and they can also ensure *Parker* immunity is available by adopting clear policies to displace competition and providing active supervision. Arguments against the wisdom of applying the antitrust laws to professional regulation absent compliance with the prerequisites for invoking *Parker* immunity must be rejected, see *Patrick v. Burget*, 486 U. S. 94, 105–106, particularly in light of the risks licensing boards dominated by market participants may pose to the free market. Pp. 14–16.

(5) The Board does not contend in this Court that its anticompetitive conduct was actively supervised by the State or that it should receive *Parker* immunity on that basis. The Act delegates control over the practice of dentistry to the Board, but says nothing about teeth whitening. In acting to expel the dentists' competitors from the market, the Board relied on cease-and-desist letters threatening criminal liability, instead of other powers at its disposal that would have invoked oversight by a politically accountable official. Whether or not the Board exceeded its powers under North Carolina law, there is no evidence of any decision by the State to initiate or concur with the Board's actions against the nondentists. P. 17.

(c) Here, where there are no specific supervisory systems to be reviewed, it suffices to note that the inquiry regarding active supervision is flexible and context-dependent. The question is whether the State's review mechanisms provide "realistic assurance" that a non-sovereign actor's anticompetitive conduct "promotes state policy, rather than merely the party's individual interests." *Patrick*, 486 U. S., 100–101. The Court has identified only a few constant requirements of active supervision: The supervisor must review the substance of the anticompetitive decision, see *id.*, at 102–103; the supervisor must have the power to veto or modify particular decisions to ensure they accord with state policy, see *ibid.*; and the "mere potential for state

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supervision is not an adequate substitute for a decision by the State,” *Ticor, supra*, at 638. Further, the state supervisor may not itself be an active market participant. In general, however, the adequacy of supervision otherwise will depend on all the circumstances of a case. Pp. 17–18.

717 F. 3d 359, affirmed.

KENNEDY, J., delivered the opinion of the Court, in which ROBERTS, C. J., and GINSBURG, BREYER, SOTOMAYOR, and KAGAN, JJ., joined. ALITO, J., filed a dissenting opinion, in which SCALIA and THOMAS, JJ., joined.

Opinion of the Court

NOTICE: This opinion is subject to formal revision before publication in the preliminary print of the United States Reports. Readers are requested to notify the Reporter of Decisions, Supreme Court of the United States, Washington, D. C. 20543, of any typographical or other formal errors, in order that corrections may be made before the preliminary print goes to press.

SUPREME COURT OF THE UNITED STATES

No. 13–534

**NORTH CAROLINA STATE BOARD OF DENTAL
EXAMINERS, PETITIONER *v.* FEDERAL
TRADE COMMISSION**

ON WRIT OF CERTIORARI TO THE UNITED STATES COURT OF
APPEALS FOR THE FOURTH CIRCUIT

[February 25, 2015]

JUSTICE KENNEDY delivered the opinion of the Court.

This case arises from an antitrust challenge to the actions of a state regulatory board. A majority of the board’s members are engaged in the active practice of the profession it regulates. The question is whether the board’s actions are protected from Sherman Act regulation under the doctrine of state-action antitrust immunity, as defined and applied in this Court’s decisions beginning with *Parker v. Brown*, 317 U. S. 341 (1943).

I
A

In its Dental Practice Act (Act), North Carolina has declared the practice of dentistry to be a matter of public concern requiring regulation. N. C. Gen. Stat. Ann. §90–22(a) (2013). Under the Act, the North Carolina State Board of Dental Examiners (Board) is “the agency of the State for the regulation of the practice of dentistry.” §90–22(b).

The Board’s principal duty is to create, administer, and enforce a licensing system for dentists. See §§90–29 to

90–41. To perform that function it has broad authority over licensees. See §90–41. The Board’s authority with respect to unlicensed persons, however, is more restricted: like “any resident citizen,” the Board may file suit to “perpetually enjoin any person from . . . unlawfully practicing dentistry.” §90–40.1.

The Act provides that six of the Board’s eight members must be licensed dentists engaged in the active practice of dentistry. §90–22. They are elected by other licensed dentists in North Carolina, who cast their ballots in elections conducted by the Board. *Ibid.* The seventh member must be a licensed and practicing dental hygienist, and he or she is elected by other licensed hygienists. *Ibid.* The final member is referred to by the Act as a “consumer” and is appointed by the Governor. *Ibid.* All members serve 3-year terms, and no person may serve more than two consecutive terms. *Ibid.* The Act does not create any mechanism for the removal of an elected member of the Board by a public official. See *ibid.*

Board members swear an oath of office, §138A–22(a), and the Board must comply with the State’s Administrative Procedure Act, §150B–1 *et seq.*, Public Records Act, §132–1 *et seq.*, and open-meetings law, §143–318.9 *et seq.* The Board may promulgate rules and regulations governing the practice of dentistry within the State, provided those mandates are not inconsistent with the Act and are approved by the North Carolina Rules Review Commission, whose members are appointed by the state legislature. See §§90–48, 143B–30.1, 150B–21.9(a).

B

In the 1990’s, dentists in North Carolina started whitening teeth. Many of those who did so, including 8 of the Board’s 10 members during the period at issue in this case, earned substantial fees for that service. By 2003, nondentists arrived on the scene. They charged lower

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prices for their services than the dentists did. Dentists soon began to complain to the Board about their new competitors. Few complaints warned of possible harm to consumers. Most expressed a principal concern with the low prices charged by nondentists.

Responding to these filings, the Board opened an investigation into nondentist teeth whitening. A dentist member was placed in charge of the inquiry. Neither the Board's hygienist member nor its consumer member participated in this undertaking. The Board's chief operations officer remarked that the Board was "going forth to do battle" with nondentists. App. to Pet. for Cert. 103a. The Board's concern did not result in a formal rule or regulation reviewable by the independent Rules Review Commission, even though the Act does not, by its terms, specify that teeth whitening is "the practice of dentistry."

Starting in 2006, the Board issued at least 47 cease-and-desist letters on its official letterhead to nondentist teeth whitening service providers and product manufacturers. Many of those letters directed the recipient to cease "all activity constituting the practice of dentistry"; warned that the unlicensed practice of dentistry is a crime; and strongly implied (or expressly stated) that teeth whitening constitutes "the practice of dentistry." App. 13, 15. In early 2007, the Board persuaded the North Carolina Board of Cosmetic Art Examiners to warn cosmetologists against providing teeth whitening services. Later that year, the Board sent letters to mall operators, stating that kiosk teeth whiteners were violating the Dental Practice Act and advising that the malls consider expelling violators from their premises.

These actions had the intended result. Nondentists ceased offering teeth whitening services in North Carolina.

C

In 2010, the Federal Trade Commission (FTC) filed an

administrative complaint charging the Board with violating §5 of the Federal Trade Commission Act, 38 Stat. 719, as amended, 15 U. S. C. §45. The FTC alleged that the Board's concerted action to exclude nondentists from the market for teeth whitening services in North Carolina constituted an anticompetitive and unfair method of competition. The Board moved to dismiss, alleging state-action immunity. An Administrative Law Judge (ALJ) denied the motion. On appeal, the FTC sustained the ALJ's ruling. It reasoned that, even assuming the Board had acted pursuant to a clearly articulated state policy to displace competition, the Board is a "public/private hybrid" that must be actively supervised by the State to claim immunity. App. to Pet. for Cert. 49a. The FTC further concluded the Board could not make that showing.

Following other proceedings not relevant here, the ALJ conducted a hearing on the merits and determined the Board had unreasonably restrained trade in violation of antitrust law. On appeal, the FTC again sustained the ALJ. The FTC rejected the Board's public safety justification, noting, *inter alia*, "a wealth of evidence . . . suggesting that non-dentist provided teeth whitening is a safe cosmetic procedure." *Id.*, at 123a.

The FTC ordered the Board to stop sending the cease-and-desist letters or other communications that stated nondentists may not offer teeth whitening services and products. It further ordered the Board to issue notices to all earlier recipients of the Board's cease-and-desist orders advising them of the Board's proper sphere of authority and saying, among other options, that the notice recipients had a right to seek declaratory rulings in state court.

On petition for review, the Court of Appeals for the Fourth Circuit affirmed the FTC in all respects. 717 F. 3d 359, 370 (2013). This Court granted certiorari. 571 U. S. ___ (2014).

Opinion of the Court

II

Federal antitrust law is a central safeguard for the Nation’s free market structures. In this regard it is “as important to the preservation of economic freedom and our free-enterprise system as the Bill of Rights is to the protection of our fundamental personal freedoms.” *United States v. Topco Associates, Inc.*, 405 U. S. 596, 610 (1972). The antitrust laws declare a considered and decisive prohibition by the Federal Government of cartels, price fixing, and other combinations or practices that undermine the free market.

The Sherman Act, 26 Stat. 209, as amended, 15 U. S. C. §1 *et seq.*, serves to promote robust competition, which in turn empowers the States and provides their citizens with opportunities to pursue their own and the public’s welfare. See *FTC v. Ticor Title Ins. Co.*, 504 U. S. 621, 632 (1992). The States, however, when acting in their respective realm, need not adhere in all contexts to a model of unfettered competition. While “the States regulate their economies in many ways not inconsistent with the antitrust laws,” *id.*, at 635–636, in some spheres they impose restrictions on occupations, confer exclusive or shared rights to dominate a market, or otherwise limit competition to achieve public objectives. If every duly enacted state law or policy were required to conform to the mandates of the Sherman Act, thus promoting competition at the expense of other values a State may deem fundamental, federal antitrust law would impose an impermissible burden on the States’ power to regulate. See *Exxon Corp. v. Governor of Maryland*, 437 U. S. 117, 133 (1978); see also Easterbrook, *Antitrust and the Economics of Federalism*, 26 *J. Law & Econ.* 23, 24 (1983).

For these reasons, the Court in *Parker v. Brown* interpreted the antitrust laws to confer immunity on anticompetitive conduct by the States when acting in their sovereign capacity. See 317 U. S., at 350–351. That ruling

recognized Congress' purpose to respect the federal balance and to "embody in the Sherman Act the federalism principle that the States possess a significant measure of sovereignty under our Constitution." *Community Communications Co. v. Boulder*, 455 U. S. 40, 53 (1982). Since 1943, the Court has reaffirmed the importance of *Parker's* central holding. See, e.g., *Ticor, supra*, at 632–637; *Hoover v. Ronwin*, 466 U. S. 558, 568 (1984); *Lafayette v. Louisiana Power & Light Co.*, 435 U. S. 389, 394–400 (1978).

III

In this case the Board argues its members were invested by North Carolina with the power of the State and that, as a result, the Board's actions are cloaked with *Parker* immunity. This argument fails, however. A nonsovereign actor controlled by active market participants—such as the Board—enjoys *Parker* immunity only if it satisfies two requirements: "first that 'the challenged restraint . . . be one clearly articulated and affirmatively expressed as state policy,' and second that 'the policy . . . be actively supervised by the State.'" *FTC v. Phoebe Putney Health System, Inc.*, 568 U. S. ___, ___ (2013) (slip op., at 7) (quoting *California Retail Liquor Dealers Assn. v. Midcal Aluminum, Inc.*, 445 U. S. 97, 105 (1980)). The parties have assumed that the clear articulation requirement is satisfied, and we do the same. While North Carolina prohibits the unauthorized practice of dentistry, however, its Act is silent on whether that broad prohibition covers teeth whitening. Here, the Board did not receive active supervision by the State when it interpreted the Act as addressing teeth whitening and when it enforced that policy by issuing cease-and-desist letters to nondentist teeth whiteners.

A

Although state-action immunity exists to avoid conflicts

Opinion of the Court

between state sovereignty and the Nation’s commitment to a policy of robust competition, *Parker* immunity is not unbounded. “[G]iven the fundamental national values of free enterprise and economic competition that are embodied in the federal antitrust laws, ‘state action immunity is disfavored, much as are repeals by implication.’” *Phoebé Putney, supra*, at ____ (slip op., at 7) (quoting *Ticor, supra*, at 636).

An entity may not invoke *Parker* immunity unless the actions in question are an exercise of the State’s sovereign power. See *Columbia v. Omni Outdoor Advertising, Inc.*, 499 U. S. 365, 374 (1991). State legislation and “decision[s] of a state supreme court, acting legislatively rather than judicially,” will satisfy this standard, and “*ipso facto* are exempt from the operation of the antitrust laws” because they are an undoubted exercise of state sovereign authority. *Hoover, supra*, at 567–568.

But while the Sherman Act confers immunity on the States’ own anticompetitive policies out of respect for federalism, it does not always confer immunity where, as here, a State delegates control over a market to a non-sovereign actor. See *Parker, supra*, at 351 (“[A] state does not give immunity to those who violate the Sherman Act by authorizing them to violate it, or by declaring that their action is lawful”). For purposes of *Parker*, a nonsovereign actor is one whose conduct does not automatically qualify as that of the sovereign State itself. See *Hoover, supra*, at 567–568. State agencies are not simply by their governmental character sovereign actors for purposes of state-action immunity. See *Goldfarb v. Virginia State Bar*, 421 U. S. 773, 791 (1975) (“The fact that the State Bar is a state agency for some limited purposes does not create an antitrust shield that allows it to foster anticompetitive practices for the benefit of its members”). Immunity for state agencies, therefore, requires more than a mere facade of state involvement, for it is necessary in light of

Parker's rationale to ensure the States accept political accountability for anticompetitive conduct they permit and control. See *Ticor*, 504 U. S., at 636.

Limits on state-action immunity are most essential when the State seeks to delegate its regulatory power to active market participants, for established ethical standards may blend with private anticompetitive motives in a way difficult even for market participants to discern. Dual allegiances are not always apparent to an actor. In consequence, active market participants cannot be allowed to regulate their own markets free from antitrust accountability. See *Midcal*, *supra*, at 106 (“The national policy in favor of competition cannot be thwarted by casting [a] gauzy cloak of state involvement over what is essentially a private price-fixing arrangement”). Indeed, prohibitions against anticompetitive self-regulation by active market participants are an axiom of federal antitrust policy. See, e.g., *Allied Tube & Conduit Corp. v. Indian Head, Inc.*, 486 U. S. 492, 501 (1988); *Hoover*, *supra*, at 584 (Stevens, J., dissenting) (“The risk that private regulation of market entry, prices, or output may be designed to confer monopoly profits on members of an industry at the expense of the consuming public has been the central concern of . . . our antitrust jurisprudence”); see also Elhauge, *The Scope of Antitrust Process*, 104 Harv. L. Rev. 667, 672 (1991). So it follows that, under *Parker* and the Supremacy Clause, the States’ greater power to attain an end does not include the lesser power to negate the congressional judgment embodied in the Sherman Act through unsupervised delegations to active market participants. See Garland, *Antitrust and State Action: Economic Efficiency and the Political Process*, 96 Yale L. J. 486, 500 (1986).

Parker immunity requires that the anticompetitive conduct of nonsovereign actors, especially those authorized by the State to regulate their own profession, result from procedures that suffice to make it the State’s own.

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See *Goldfarb, supra*, at 790; see also 1A P. Areeda & H. Hovencamp, *Antitrust Law* ¶226, p. 180 (4th ed. 2013) (Areeda & Hovencamp). The question is not whether the challenged conduct is efficient, well-functioning, or wise. See *Ticor, supra*, at 634–635. Rather, it is “whether anti-competitive conduct engaged in by [nonsovereign actors] should be deemed state action and thus shielded from the antitrust laws.” *Patrick v. Burget*, 486 U. S. 94, 100 (1988).

To answer this question, the Court applies the two-part test set forth in *California Retail Liquor Dealers Assn. v. Midcal Aluminum, Inc.*, 445 U. S. 97, a case arising from California’s delegation of price-fixing authority to wine merchants. Under *Midcal*, “[a] state law or regulatory scheme cannot be the basis for antitrust immunity unless, first, the State has articulated a clear policy to allow the anticompetitive conduct, and second, the State provides active supervision of [the] anticompetitive conduct.” *Ticor, supra*, at 631 (citing *Midcal, supra*, at 105).

Midcal’s clear articulation requirement is satisfied “where the displacement of competition [is] the inherent, logical, or ordinary result of the exercise of authority delegated by the state legislature. In that scenario, the State must have foreseen and implicitly endorsed the anticompetitive effects as consistent with its policy goals.” *Phoebe Putney*, 568 U. S., at ____ (slip op., at 11). The active supervision requirement demands, *inter alia*, “that state officials have and exercise power to review particular anticompetitive acts of private parties and disapprove those that fail to accord with state policy.” *Patrick, supra*, U. S., at 101.

The two requirements set forth in *Midcal* provide a proper analytical framework to resolve the ultimate question whether an anticompetitive policy is indeed the policy of a State. The first requirement—clear articulation—rarely will achieve that goal by itself, for a policy may

satisfy this test yet still be defined at so high a level of generality as to leave open critical questions about how and to what extent the market should be regulated. See *Ticor, supra*, at 636–637. Entities purporting to act under state authority might diverge from the State’s considered definition of the public good. The resulting asymmetry between a state policy and its implementation can invite private self-dealing. The second *Midcal* requirement—active supervision—seeks to avoid this harm by requiring the State to review and approve interstitial policies made by the entity claiming immunity.

Midcal’s supervision rule “stems from the recognition that [w]here a private party is engaging in anticompetitive activity, there is a real danger that he is acting to further his own interests, rather than the governmental interests of the State.” *Patrick, supra*, at 100. Concern about the private incentives of active market participants animates *Midcal*’s supervision mandate, which demands “realistic assurance that a private party’s anticompetitive conduct promotes state policy, rather than merely the party’s individual interests.” *Patrick, supra*, at 101.

B

In determining whether anticompetitive policies and conduct are indeed the action of a State in its sovereign capacity, there are instances in which an actor can be excused from *Midcal*’s active supervision requirement. In *Hallie v. Eau Claire*, 471 U. S. 34, 45 (1985), the Court held municipalities are subject exclusively to *Midcal*’s “clear articulation” requirement. That rule, the Court observed, is consistent with the objective of ensuring that the policy at issue be one enacted by the State itself. *Hallie* explained that “[w]here the actor is a municipality, there is little or no danger that it is involved in a private price-fixing arrangement. The only real danger is that it will seek to further purely parochial public interests at the

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expense of more overriding state goals.” 471 U. S., at 47. *Hallie* further observed that municipalities are electorally accountable and lack the kind of private incentives characteristic of active participants in the market. See *id.*, at 45, n. 9. Critically, the municipality in *Hallie* exercised a wide range of governmental powers across different economic spheres, substantially reducing the risk that it would pursue private interests while regulating any single field. See *ibid.* That *Hallie* excused municipalities from *Midcal*’s supervision rule for these reasons all but confirms the rule’s applicability to actors controlled by active market participants, who ordinarily have none of the features justifying the narrow exception *Hallie* identified. See 471 U. S., at 45.

Following *Goldfarb*, *Midcal*, and *Hallie*, which clarified the conditions under which *Parker* immunity attaches to the conduct of a nonsovereign actor, the Court in *Columbia v. Omni Outdoor Advertising, Inc.*, 499 U. S. 365, addressed whether an otherwise immune entity could lose immunity for conspiring with private parties. In *Omni*, an aspiring billboard merchant argued that the city of Columbia, South Carolina, had violated the Sherman Act—and forfeited its *Parker* immunity—by anticompetitively conspiring with an established local company in passing an ordinance restricting new billboard construction. 499 U. S., at 367–368. The Court disagreed, holding there is no “conspiracy exception” to *Parker*. *Omni, supra*, at 374.

Omni, like the cases before it, recognized the importance of drawing a line “relevant to the purposes of the Sherman Act and of *Parker*: prohibiting the restriction of competition for private gain but permitting the restriction of competition in the public interest.” 499 U. S., at 378. In the context of a municipal actor which, as in *Hallie*, exercised substantial governmental powers, *Omni* rejected a conspiracy exception for “corruption” as vague and unworkable, since “virtually all regulation benefits some

segments of the society and harms others” and may in that sense be seen as “‘corrupt.’” 499 U. S., at 377. *Omni* also rejected subjective tests for corruption that would force a “deconstruction of the governmental process and probing of the official ‘intent’ that we have consistently sought to avoid.” *Ibid.* Thus, whereas the cases preceding it addressed the preconditions of *Parker* immunity and engaged in an objective, *ex ante* inquiry into nonsovereign actors’ structure and incentives, *Omni* made clear that recipients of immunity will not lose it on the basis of ad hoc and *ex post* questioning of their motives for making particular decisions.

Omni’s holding makes it all the more necessary to ensure the conditions for granting immunity are met in the first place. The Court’s two state-action immunity cases decided after *Omni* reinforce this point. In *Ticor* the Court affirmed that *Midcal*’s limits on delegation must ensure that “[a]ctual state involvement, not deference to private price-fixing arrangements under the general auspices of state law, is the precondition for immunity from federal law.” 504 U. S., at 633. And in *Phoebe Putney* the Court observed that *Midcal*’s active supervision requirement, in particular, is an essential condition of state-action immunity when a nonsovereign actor has “an incentive to pursue [its] own self-interest under the guise of implementing state policies.” 568 U. S., at ___ (slip op., at 8) (quoting *Hallie, supra*, at 46–47). The lesson is clear: *Midcal*’s active supervision test is an essential prerequisite of *Parker* immunity for any nonsovereign entity—public or private—controlled by active market participants.

C

The Board argues entities designated by the States as agencies are exempt from *Midcal*’s second requirement. That premise, however, cannot be reconciled with the Court’s repeated conclusion that the need for supervision

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turns not on the formal designation given by States to regulators but on the risk that active market participants will pursue private interests in restraining trade.

State agencies controlled by active market participants, who possess singularly strong private interests, pose the very risk of self-dealing *Midcal*'s supervision requirement was created to address. See *Areeda & Hovencamp* ¶227, at 226. This conclusion does not question the good faith of state officers but rather is an assessment of the structural risk of market participants' confusing their own interests with the State's policy goals. See *Patrick*, 486 U. S., at 100–101.

The Court applied this reasoning to a state agency in *Goldfarb*. There the Court denied immunity to a state agency (the Virginia State Bar) controlled by market participants (lawyers) because the agency had “joined in what is essentially a private anticompetitive activity” for “the benefit of its members.” 421 U. S., at 791, 792. This emphasis on the Bar's private interests explains why *Goldfarb*, though it predates *Midcal*, considered the lack of supervision by the Virginia Supreme Court to be a principal reason for denying immunity. See 421 U. S., at 791; see also *Hoover*, 466 U. S., at 569 (emphasizing lack of active supervision in *Goldfarb*); *Bates v. State Bar of Ariz.*, 433 U. S. 350, 361–362 (1977) (granting the Arizona Bar state-action immunity partly because its “rules are subject to pointed re-examination by the policymaker”).

While *Hallie* stated “it is likely that active state supervision would also not be required” for agencies, 471 U. S., at 46, n. 10, the entity there, as was later the case in *Omni*, was an electorally accountable municipality with general regulatory powers and no private price-fixing agenda. In that and other respects the municipality was more like prototypical state agencies, not specialized boards dominated by active market participants. In important regards, agencies controlled by market partici-

pants are more similar to private trade associations vested by States with regulatory authority than to the agencies *Hallie* considered. And as the Court observed three years after *Hallie*, “[t]here is no doubt that the members of such associations often have economic incentives to restrain competition and that the product standards set by such associations have a serious potential for anticompetitive harm.” *Allied Tube*, 486 U. S., at 500. For that reason, those associations must satisfy *Midcal*’s active supervision standard. See *Midcal*, 445 U. S., at 105–106.

The similarities between agencies controlled by active market participants and private trade associations are not eliminated simply because the former are given a formal designation by the State, vested with a measure of government power, and required to follow some procedural rules. See *Hallie*, *supra*, at 39 (rejecting “purely formalistic” analysis). *Parker* immunity does not derive from nomenclature alone. When a State empowers a group of active market participants to decide who can participate in its market, and on what terms, the need for supervision is manifest. See *Areeda & Hovencamp* ¶227, at 226. The Court holds today that a state board on which a controlling number of decisionmakers are active market participants in the occupation the board regulates must satisfy *Midcal*’s active supervision requirement in order to invoke state-action antitrust immunity.

D

The State argues that allowing this FTC order to stand will discourage dedicated citizens from serving on state agencies that regulate their own occupation. If this were so—and, for reasons to be noted, it need not be so—there would be some cause for concern. The States have a sovereign interest in structuring their governments, see *Gregory v. Ashcroft*, 501 U. S. 452, 460 (1991), and may conclude there are substantial benefits to staffing their

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agencies with experts in complex and technical subjects, see *Southern Motor Carriers Rate Conference, Inc. v. United States*, 471 U. S. 48, 64 (1985). There is, moreover, a long tradition of citizens esteemed by their professional colleagues devoting time, energy, and talent to enhancing the dignity of their calling.

Adherence to the idea that those who pursue a calling must embrace ethical standards that derive from a duty separate from the dictates of the State reaches back at least to the Hippocratic Oath. See generally S. Miles, *The Hippocratic Oath and the Ethics of Medicine* (2004). In the United States, there is a strong tradition of professional self-regulation, particularly with respect to the development of ethical rules. See generally R. Rotunda & J. Dzienkowski, *Legal Ethics: The Lawyer's Deskbook on Professional Responsibility* (2014); R. Baker, *Before Bioethics: A History of American Medical Ethics From the Colonial Period to the Bioethics Revolution* (2013). Dentists are no exception. The American Dental Association, for example, in an exercise of “the privilege and obligation of self-government,” has “call[ed] upon dentists to follow high ethical standards,” including “honesty, compassion, kindness, integrity, fairness and charity.” American Dental Association, *Principles of Ethics and Code of Professional Conduct* 3–4 (2012). State laws and institutions are sustained by this tradition when they draw upon the expertise and commitment of professionals.

Today's holding is not inconsistent with that idea. The Board argues, however, that the potential for money damages will discourage members of regulated occupations from participating in state government. Cf. *Filarsky v. Delia*, 566 U. S. ___, ___ (2012) (slip op., at 12) (warning in the context of civil rights suits that the “the most talented candidates will decline public engagements if they do not receive the same immunity enjoyed by their public employee counterparts”). But this case, which does not

present a claim for money damages, does not offer occasion to address the question whether agency officials, including board members, may, under some circumstances, enjoy immunity from damages liability. See *Goldfarb*, 421 U. S., at 792, n. 22; see also Brief for Respondent 56. And, of course, the States may provide for the defense and indemnification of agency members in the event of litigation.

States, furthermore, can ensure *Parker* immunity is available to agencies by adopting clear policies to displace competition; and, if agencies controlled by active market participants interpret or enforce those policies, the States may provide active supervision. Precedent confirms this principle. The Court has rejected the argument that it would be unwise to apply the antitrust laws to professional regulation absent compliance with the prerequisites for invoking *Parker* immunity:

“[Respondents] contend that effective peer review is essential to the provision of quality medical care and that any threat of antitrust liability will prevent physicians from participating openly and actively in peer-review proceedings. This argument, however, essentially challenges the wisdom of applying the antitrust laws to the sphere of medical care, and as such is properly directed to the legislative branch. To the extent that Congress has declined to exempt medical peer review from the reach of the antitrust laws, peer review is immune from antitrust scrutiny only if the State effectively has made this conduct its own.” *Patrick*, 486 U. S. at 105–106 (footnote omitted).

The reasoning of *Patrick v. Burget* applies to this case with full force, particularly in light of the risks licensing boards dominated by market participants may pose to the free market. See generally Edlin & Haw, Cartels by Another Name: Should Licensed Occupations Face Antitrust Scrutiny? 162 U. Pa. L. Rev. 1093 (2014).

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E

The Board does not contend in this Court that its anti-competitive conduct was actively supervised by the State or that it should receive *Parker* immunity on that basis.

By statute, North Carolina delegates control over the practice of dentistry to the Board. The Act, however, says nothing about teeth whitening, a practice that did not exist when it was passed. After receiving complaints from other dentists about the nondentists' cheaper services, the Board's dentist members—some of whom offered whitening services—acted to expel the dentists' competitors from the market. In so doing the Board relied upon cease-and-desist letters threatening criminal liability, rather than any of the powers at its disposal that would invoke oversight by a politically accountable official. With no active supervision by the State, North Carolina officials may well have been unaware that the Board had decided teeth whitening constitutes “the practice of dentistry” and sought to prohibit those who competed against dentists from participating in the teeth whitening market. Whether or not the Board exceeded its powers under North Carolina law, cf. *Omni*, 499 U. S., at 371–372, there is no evidence here of any decision by the State to initiate or concur with the Board's actions against the nondentists.

IV

The Board does not claim that the State exercised active, or indeed any, supervision over its conduct regarding nondentist teeth whiteners; and, as a result, no specific supervisory systems can be reviewed here. It suffices to note that the inquiry regarding active supervision is flexible and context-dependent. Active supervision need not entail day-to-day involvement in an agency's operations or micromanagement of its every decision. Rather, the question is whether the State's review mechanisms provide “realistic assurance” that a nonsovereign actor's anticom-

petitive conduct “promotes state policy, rather than merely the party’s individual interests.” *Patrick, supra*, at 100–101; see also *Ticor*, 504 U. S., at 639–640.

The Court has identified only a few constant requirements of active supervision: The supervisor must review the substance of the anticompetitive decision, not merely the procedures followed to produce it, see *Patrick*, 486 U. S., at 102–103; the supervisor must have the power to veto or modify particular decisions to ensure they accord with state policy, see *ibid.*; and the “mere potential for state supervision is not an adequate substitute for a decision by the State,” *Ticor, supra*, at 638. Further, the state supervisor may not itself be an active market participant. In general, however, the adequacy of supervision otherwise will depend on all the circumstances of a case.

* * *

The Sherman Act protects competition while also respecting federalism. It does not authorize the States to abandon markets to the unsupervised control of active market participants, whether trade associations or hybrid agencies. If a State wants to rely on active market participants as regulators, it must provide active supervision if state-action immunity under *Parker* is to be invoked.

The judgment of the Court of Appeals for the Fourth Circuit is affirmed.

It is so ordered.

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SUPREME COURT OF THE UNITED STATES

No. 13–534

**NORTH CAROLINA STATE BOARD OF DENTAL
EXAMINERS, PETITIONER *v.* FEDERAL
TRADE COMMISSION**

ON WRIT OF CERTIORARI TO THE UNITED STATES COURT OF
APPEALS FOR THE FOURTH CIRCUIT

[February 25, 2015]

JUSTICE ALITO, with whom JUSTICE SCALIA and JUSTICE THOMAS join, dissenting.

The Court’s decision in this case is based on a serious misunderstanding of the doctrine of state-action antitrust immunity that this Court recognized more than 60 years ago in *Parker v. Brown*, 317 U. S. 341 (1943). In *Parker*, the Court held that the Sherman Act does not prevent the States from continuing their age-old practice of enacting measures, such as licensing requirements, that are designed to protect the public health and welfare. *Id.*, at 352. The case now before us involves precisely this type of state regulation—North Carolina’s laws governing the practice of dentistry, which are administered by the North Carolina Board of Dental Examiners (Board).

Today, however, the Court takes the unprecedented step of holding that *Parker* does not apply to the North Carolina Board because the Board is not structured in a way that merits a good-government seal of approval; that is, it is made up of practicing dentists who have a financial incentive to use the licensing laws to further the financial interests of the State’s dentists. There is nothing new about the structure of the North Carolina Board. When the States first created medical and dental boards, well before the Sherman Act was enacted, they began to staff

them in this way.¹ Nor is there anything new about the suspicion that the North Carolina Board—in attempting to prevent persons other than dentists from performing teeth-whitening procedures—was serving the interests of dentists and not the public. Professional and occupational licensing requirements have often been used in such a way.² But that is not what *Parker* immunity is about. Indeed, the very state program involved in that case was unquestionably designed to benefit the regulated entities, California raisin growers.

The question before us is not whether such programs serve the public interest. The question, instead, is whether this case is controlled by *Parker*, and the answer to that question is clear. Under *Parker*, the Sherman Act (and the Federal Trade Commission Act, see *FTC v. Ticor Title Ins. Co.*, 504 U. S. 621, 635 (1992)) do not apply to state agencies; the North Carolina Board of Dental Examiners is a state agency; and that is the end of the matter. By straying from this simple path, the Court has not only distorted *Parker*; it has headed into a morass. Determining whether a state agency is structured in a way that militates against regulatory capture is no easy task, and there is reason to fear that today's decision will spawn confusion. The Court has veered off course, and therefore I cannot go along.

¹S. White, *History of Oral and Dental Science in America 197–214* (1876) (detailing earliest American regulations of the practice of dentistry).

²See, e.g., R. Shrylock, *Medical Licensing in America 29* (1967) (Shrylock) (detailing the deterioration of licensing regimes in the mid-19th century, in part out of concerns about restraints on trade); Gellhorn, *The Abuse of Occupational Licensing*, 44 *U. Chi. L. Rev.* 6 (1976); Shepard, *Licensing Restrictions and the Cost of Dental Care*, 21 *J. Law & Econ.* 187 (1978).

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I

In order to understand the nature of *Parker* state-action immunity, it is helpful to recall the constitutional landscape in 1890 when the Sherman Act was enacted. At that time, this Court and Congress had an understanding of the scope of federal and state power that is very different from our understanding today. The States were understood to possess the exclusive authority to regulate “their purely internal affairs.” *Leisy v. Hardin*, 135 U. S. 100, 122 (1890). In exercising their police power in this area, the States had long enacted measures, such as price controls and licensing requirements, that had the effect of restraining trade.³

The Sherman Act was enacted pursuant to Congress’ power to regulate interstate commerce, and in passing the Act, Congress wanted to exercise that power “to the utmost extent.” *United States v. South-Eastern Underwriters Assn.*, 322 U. S. 533, 558 (1944). But in 1890, the understanding of the commerce power was far more limited than it is today. See, e.g., *Kidd v. Pearson*, 128 U. S. 1, 17–18 (1888). As a result, the Act did not pose a threat to traditional state regulatory activity.

By 1943, when *Parker* was decided, however, the situation had changed dramatically. This Court had held that the commerce power permitted Congress to regulate even local activity if it “exerts a substantial economic effect on interstate commerce.” *Wickard v. Filburn*, 317 U. S. 111, 125 (1942). This meant that Congress could regulate many of the matters that had once been thought to fall exclusively within the jurisdiction of the States. The new interpretation of the commerce power brought about an expansion of the reach of the Sherman Act. See *Hospital*

³See Handler, The Current Attack on the *Parker v. Brown* State Action Doctrine, 76 Colum. L. Rev. 1, 4–6 (1976) (collecting cases).

Building Co. v. Trustees of Rex Hospital, 425 U. S. 738, 743, n. 2 (1976) (“[D]ecisions by this Court have permitted the reach of the Sherman Act to expand along with expanding notions of congressional power”). And the expanded reach of the Sherman Act raised an important question. The Sherman Act does not expressly exempt States from its scope. Does that mean that the Act applies to the States and that it potentially outlaws many traditional state regulatory measures? The Court confronted that question in *Parker*.

In *Parker*, a raisin producer challenged the California Agricultural Prorate Act, an agricultural price support program. The California Act authorized the creation of an Agricultural Prorate Advisory Commission (Commission) to establish marketing plans for certain agricultural commodities within the State. 317 U. S., at 346–347. Raisins were among the regulated commodities, and so the Commission established a marketing program that governed many aspects of raisin sales, including the quality and quantity of raisins sold, the timing of sales, and the price at which raisins were sold. *Id.*, at 347–348. The *Parker* Court assumed that this program would have violated “the Sherman Act if it were organized and made effective solely by virtue of a contract, combination or conspiracy of private persons,” and the Court also assumed that Congress could have prohibited a State from creating a program like California’s if it had chosen to do so. *Id.*, at 350. Nevertheless, the Court concluded that the California program did not violate the Sherman Act because the Act did not circumscribe state regulatory power. *Id.*, at 351.

The Court’s holding in *Parker* was not based on either the language of the Sherman Act or anything in the legislative history affirmatively showing that the Act was not meant to apply to the States. Instead, the Court reasoned that “[i]n a dual system of government in which, under the Constitution, the states are sovereign, save only as Con-

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gress may constitutionally subtract from their authority, an unexpressed purpose to nullify a state’s control over its officers and agents is not lightly to be attributed to Congress.” 317 U. S., at 351. For the Congress that enacted the Sherman Act in 1890, it would have been a truly radical and almost certainly futile step to attempt to prevent the States from exercising their traditional regulatory authority, and the *Parker* Court refused to assume that the Act was meant to have such an effect.

When the basis for the *Parker* state-action doctrine is understood, the Court’s error in this case is plain. In 1890, the regulation of the practice of medicine and dentistry was regarded as falling squarely within the States’ sovereign police power. By that time, many States had established medical and dental boards, often staffed by doctors or dentists,⁴ and had given those boards the authority to confer and revoke licenses.⁵ This was quintessential police power legislation, and although state laws were often challenged during that era under the doctrine of substantive due process, the licensing of medical professionals easily survived such assaults. Just one year before the enactment of the Sherman Act, in *Dent v. West Virginia*, 129 U. S. 114, 128 (1889), this Court rejected such a challenge to a state law requiring all physicians to obtain a certificate from the state board of health attesting to their qualifications. And in *Hawker v. New York*, 170 U. S. 189, 192 (1898), the Court reiterated that a law

⁴Shrylock 54–55; D. Johnson and H. Chaudry, *Medical Licensing and Discipline in America* 23–24 (2012).

⁵In *Hawker v. New York*, 170 U. S. 189 (1898), the Court cited state laws authorizing such boards to refuse or revoke medical licenses. *Id.*, at 191–193, n. 1. See also *Douglas v. Noble*, 261 U. S. 165, 166 (1923) (“In 1893 the legislature of Washington provided that only licensed persons should practice dentistry” and “vested the authority to license in a board of examiners, consisting of five practicing dentists”).

specifying the qualifications to practice medicine was clearly a proper exercise of the police power. Thus, the North Carolina statutes establishing and specifying the powers of the State Board of Dental Examiners represent precisely the kind of state regulation that the *Parker* exemption was meant to immunize.

II

As noted above, the only question in this case is whether the North Carolina Board of Dental Examiners is really a state agency, and the answer to that question is clearly yes.

- The North Carolina Legislature determined that the practice of dentistry “affect[s] the public health, safety and welfare” of North Carolina’s citizens and that therefore the profession should be “subject to regulation and control in the public interest” in order to ensure “that only qualified persons be permitted to practice dentistry in the State.” N. C. Gen. Stat. Ann. §90–22(a) (2013).
- To further that end, the legislature created the North Carolina State Board of Dental Examiners “as the agency of the State for the regulation of the practice of dentistry in th[e] State.” §90–22(b).
- The legislature specified the membership of the Board. §90–22(c). It defined the “practice of dentistry,” §90–29(b), and it set out standards for licensing practitioners, §90–30. The legislature also set out standards under which the Board can initiate disciplinary proceedings against licensees who engage in certain improper acts. §90–41(a).
- The legislature empowered the Board to “maintain an action in the name of the State of North Carolina to perpetually enjoin any person from . . . unlawfully practicing dentistry.” §90–40.1(a). It authorized the Board to conduct investigations and to hire legal

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counsel, and the legislature made any “notice or statement of charges against any licensee” a public record under state law. §§ 90–41(d)–(g).

- The legislature empowered the Board “to enact rules and regulations governing the practice of dentistry within the State,” consistent with relevant statutes. §90–48. It has required that any such rules be included in the Board’s annual report, which the Board must file with the North Carolina secretary of state, the state attorney general, and the legislature’s Joint Regulatory Reform Committee. §93B–2. And if the Board fails to file the required report, state law demands that it be automatically suspended until it does so. *Ibid.*

As this regulatory regime demonstrates, North Carolina’s Board of Dental Examiners is unmistakably a state agency created by the state legislature to serve a prescribed regulatory purpose and to do so using the State’s power in cooperation with other arms of state government.

The Board is not a private or “nonsovereign” entity that the State of North Carolina has attempted to immunize from federal antitrust scrutiny. *Parker* made it clear that a State may not “give immunity to those who violate the Sherman Act by authorizing them to violate it, or by declaring that their action is lawful.” *Ante*, at 7 (quoting *Parker*, 317 U. S., at 351). When the *Parker* Court disapproved of any such attempt, it cited *Northern Securities Co. v. United States*, 193 U. S. 197 (1904), to show what it had in mind. In that case, the Court held that a State’s act of chartering a corporation did not shield the corporation’s monopolizing activities from federal antitrust law. *Id.*, at 344–345. Nothing similar is involved here. North Carolina did not authorize a private entity to enter into an anticompetitive arrangement; rather, North Carolina created a state agency and gave that agency the power to regulate a particular subject affecting public health and

safety.

Nothing in *Parker* supports the type of inquiry that the Court now prescribes. The Court crafts a test under which state agencies that are “controlled by active market participants,” *ante*, at 12, must demonstrate active state supervision in order to be immune from federal antitrust law. The Court thus treats these state agencies like private entities. But in *Parker*, the Court did not examine the structure of the California program to determine if it had been captured by private interests. If the Court had done so, the case would certainly have come out differently, because California conditioned its regulatory measures on the participation and approval of market actors in the relevant industry.

Establishing a prorate marketing plan under California’s law first required the petition of at least 10 producers of the particular commodity. *Parker*, 317 U. S., at 346. If the Commission then agreed that a marketing plan was warranted, the Commission would “select a program committee *from among nominees chosen by the qualified producers.*” *Ibid.* (emphasis added). That committee would then formulate the proration marketing program, which the Commission could modify or approve. But even after Commission approval, the program became law (and then, automatically) only if it gained the approval of 65 percent of the relevant producers, representing at least 51 percent of the acreage of the regulated crop. *Id.*, at 347. This scheme gave decisive power to market participants. But despite these aspects of the California program, *Parker* held that California was acting as a “sovereign” when it “adopt[ed] and enforc[ed] the prorate program.” *Id.*, at 352. This reasoning is irreconcilable with the Court’s today.

III

The Court goes astray because it forgets the origin of the

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Parker doctrine and is misdirected by subsequent cases that extended that doctrine (in certain circumstances) to private entities. The Court requires the North Carolina Board to satisfy the two-part test set out in *California Retail Liquor Dealers Assn. v. Midcal Aluminum, Inc.*, 445 U. S. 97 (1980), but the party claiming *Parker* immunity in that case was not a state agency but a private trade association. Such an entity is entitled to *Parker* immunity, *Midcal* held, only if the anticompetitive conduct at issue was both “clearly articulated” and “actively supervised by the State itself.” 445 U. S., at 105. Those requirements are needed where a State authorizes private parties to engage in anticompetitive conduct. They serve to identify those situations in which conduct *by private parties* can be regarded as the conduct of a State. But when the conduct in question is the conduct of a state agency, no such inquiry is required.

This case falls into the latter category, and therefore *Midcal* is inapposite. The North Carolina Board is not a private trade association. It is a state agency, created and empowered by the State to regulate an industry affecting public health. It would not exist if the State had not created it. And for purposes of *Parker*, its membership is irrelevant; what matters is that it is part of the government of the sovereign State of North Carolina.

Our decision in *Hallie v. Eau Claire*, 471 U. S. 34 (1985), which involved Sherman Act claims against a municipality, not a State agency, is similarly inapplicable. In *Hallie*, the plaintiff argued that the two-pronged *Midcal* test should be applied, but the Court disagreed. The Court acknowledged that municipalities “are not themselves sovereign.” 471 U. S., at 38. But recognizing that a municipality is “an arm of the State,” *id.*, at 45, the Court held that a municipality should be required to satisfy only the first prong of the *Midcal* test (requiring a clearly articulated state policy), 471 U. S., at 46. That municipalities

are not sovereign was critical to our analysis in *Hallie*, and thus that decision has no application in a case, like this one, involving a state agency.

Here, however, the Court not only disregards the North Carolina Board's status as a full-fledged state agency; it treats the Board less favorably than a municipality. This is puzzling. States are sovereign, *Northern Ins. Co. of N. Y. v. Chatham County*, 547 U. S. 189, 193 (2006), and California's sovereignty provided the foundation for the decision in *Parker, supra*, at 352. Municipalities are not sovereign. *Jinks v. Richland County*, 538 U. S. 456, 466 (2003). And for this reason, federal law often treats municipalities differently from States. Compare *Will v. Michigan Dept. of State Police*, 491 U. S. 58, 71 (1989) (“[N]either a State nor its officials acting in their official capacities are ‘persons’ under [42 U. S. C.] §1983”), with *Monell v. City Dept. of Social Servs., New York*, 436 U. S. 658, 694 (1978) (municipalities liable under §1983 where “execution of a government’s policy or custom . . . inflicts the injury”).

The Court recognizes that municipalities, although not sovereign, nevertheless benefit from a more lenient standard for state-action immunity than private entities. Yet under the Court’s approach, the North Carolina Board of Dental Examiners, a full-fledged state agency, is treated like a private actor and must demonstrate that the State actively supervises its actions.

The Court’s analysis seems to be predicated on an assessment of the varying degrees to which a municipality and a state agency like the North Carolina Board are likely to be captured by private interests. But until today, *Parker* immunity was never conditioned on the proper use of state regulatory authority. On the contrary, in *Columbia v. Omni Outdoor Advertising, Inc.*, 499 U. S. 365 (1991), we refused to recognize an exception to *Parker* for cases in which it was shown that the defendants had

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engaged in a conspiracy or corruption or had acted in a way that was not in the public interest. *Id.*, at 374. The Sherman Act, we said, is not an anticorruption or good-government statute. 499 U. S., at 398. We were unwilling in *Omni* to rewrite *Parker* in order to reach the allegedly abusive behavior of city officials. 499 U. S., at 374–379. But that is essentially what the Court has done here.

III

Not only is the Court’s decision inconsistent with the underlying theory of *Parker*; it will create practical problems and is likely to have far-reaching effects on the States’ regulation of professions. As previously noted, state medical and dental boards have been staffed by practitioners since they were first created, and there are obvious advantages to this approach. It is reasonable for States to decide that the individuals best able to regulate technical professions are practitioners with expertise in those very professions. Staffing the State Board of Dental Examiners with certified public accountants would certainly lessen the risk of actions that place the well-being of dentists over those of the public, but this would also compromise the State’s interest in sensibly regulating a technical profession in which lay people have little expertise.

As a result of today’s decision, States may find it necessary to change the composition of medical, dental, and other boards, but it is not clear what sort of changes are needed to satisfy the test that the Court now adopts. The Court faults the structure of the North Carolina Board because “active market participants” constitute “a controlling number of [the] decisionmakers,” *ante*, at 14, but this test raises many questions.

What is a “controlling number”? Is it a majority? And if so, why does the Court eschew that term? Or does the Court mean to leave open the possibility that something less than a majority might suffice in particular circum-

stances? Suppose that active market participants constitute a voting bloc that is generally able to get its way? How about an obstructionist minority or an agency chair empowered to set the agenda or veto regulations?

Who is an “active market participant”? If Board members withdraw from practice during a short term of service but typically return to practice when their terms end, does that mean that they are not active market participants during their period of service?

What is the scope of the market in which a member may not participate while serving on the board? Must the market be relevant to the particular regulation being challenged or merely to the jurisdiction of the entire agency? Would the result in the present case be different if a majority of the Board members, though practicing dentists, did not provide teeth whitening services? What if they were orthodontists, periodontists, and the like? And how much participation makes a person “active” in the market?

The answers to these questions are not obvious, but the States must predict the answers in order to make informed choices about how to constitute their agencies.

I suppose that all this will be worked out by the lower courts and the Federal Trade Commission (FTC), but the Court’s approach raises a more fundamental question, and that is why the Court’s inquiry should stop with an examination of the structure of a state licensing board. When the Court asks whether market participants control the North Carolina Board, the Court in essence is asking whether this regulatory body has been captured by the entities that it is supposed to regulate. Regulatory capture can occur in many ways.⁶ So why ask only whether

⁶See, *e.g.*, R. Noll, *Reforming Regulation* 40–43, 46 (1971); J. Wilson, *The Politics of Regulation* 357–394 (1980). Indeed, it has even been

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the members of a board are active market participants? The answer may be that determining when regulatory capture has occurred is no simple task. That answer provides a reason for relieving courts from the obligation to make such determinations at all. It does not explain why it is appropriate for the Court to adopt the rather crude test for capture that constitutes the holding of today's decision.

IV

The Court has created a new standard for distinguishing between private and state actors for purposes of federal antitrust immunity. This new standard is not true to the *Parker* doctrine; it diminishes our traditional respect for federalism and state sovereignty; and it will be difficult to apply. I therefore respectfully dissent.

charged that the FTC, which brought this case, has been captured by entities over which it has jurisdiction. See E. Cox, "The Nader Report" on the Federal Trade Commission vii–xiv (1969); Posner, Federal Trade Commission, *Chi. L. Rev.* 47, 82–84 (1969).

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OFFICE OF THE ATTORNEY GENERAL
State of California

KAMALA D. HARRIS
Attorney General

OPINION	:	No. 15-402
	:	
of	:	September 10, 2015
	:	
KAMALA D. HARRIS	:	
Attorney General	:	
	:	
SUSAN DUNCAN LEE	:	
Deputy Attorney General	:	
	:	

THE HONORABLE JERRY HILL, MEMBER OF THE STATE SENATE, has requested an opinion on the following question:

What constitutes “active state supervision” of a state licensing board for purposes of the state action immunity doctrine in antitrust actions, and what measures might be taken to guard against antitrust liability for board members?

CONCLUSIONS

“Active state supervision” requires a state official to review the substance of a regulatory decision made by a state licensing board, in order to determine whether the decision actually furthers a clearly articulated state policy to displace competition with regulation in a particular market. The official reviewing the decision must not be an active member of the market being regulated, and must have and exercise the power to approve, modify, or disapprove the decision.

Measures that might be taken to guard against antitrust liability for board members include changing the composition of boards, adding lines of supervision by state officials, and providing board members with legal indemnification and antitrust training.

ANALYSIS

In *North Carolina State Board of Dental Examiners v. Federal Trade Commission*,¹ the Supreme Court of the United States established a new standard for determining whether a state licensing board is entitled to immunity from antitrust actions.

Immunity is important to state actors not only because it shields them from adverse judgments, but because it shields them from having to go through litigation. When immunity is well established, most people are deterred from filing a suit at all. If a suit is filed, the state can move for summary disposition of the case, often before the discovery process begins. This saves the state a great deal of time and money, and it relieves employees (such as board members) of the stresses and burdens that inevitably go along with being sued. This freedom from suit clears a safe space for government officials and employees to perform their duties and to exercise their discretion without constant fear of litigation. Indeed, allowing government actors freedom to exercise discretion is one of the fundamental justifications underlying immunity doctrines.²

Before *North Carolina Dental* was decided, most state licensing boards operated under the assumption that they were protected from antitrust suits under the state action immunity doctrine. In light of the decision, many states—including California—are reassessing the structures and operations of their state licensing boards with a view to determining whether changes should be made to reduce the risk of antitrust claims. This opinion examines the legal requirements for state supervision under the *North Carolina Dental* decision, and identifies a variety of measures that the state Legislature might consider taking in response to the decision.

¹ *North Carolina State Bd. of Dental Examiners v. F. T. C.* (2015) ___ U.S. ___, 135 S. Ct. 1101 (*North Carolina Dental*).

² See *Mitchell v. Forsyth* (1985) 472 U.S. 511, 526; *Harlow v. Fitzgerald* (1982) 457 U.S. 800, 819.

I. *North Carolina Dental* Established a New Immunity Standard for State Licensing Boards

A. The *North Carolina Dental* Decision

The North Carolina Board of Dental Examiners was established under North Carolina law and charged with administering a licensing system for dentists. A majority of the members of the board are themselves practicing dentists. North Carolina statutes delegated authority to the dental board to regulate the practice of dentistry, but did not expressly provide that teeth-whitening was within the scope of the practice of dentistry.

Following complaints by dentists that non-dentists were performing teeth-whitening services for low prices, the dental board conducted an investigation. The board subsequently issued cease-and-desist letters to dozens of teeth-whitening outfits, as well as to some owners of shopping malls where teeth-whiteners operated. The effect on the teeth-whitening market in North Carolina was dramatic, and the Federal Trade Commission took action.

In defense to antitrust charges, the dental board argued that, as a state agency, it was immune from liability under the federal antitrust laws. The Supreme Court rejected that argument, holding that a state board on which a controlling number of decision makers are active market participants must show that it is subject to “active supervision” in order to claim immunity.³

B. State Action Immunity Doctrine Before *North Carolina Dental*

The Sherman Antitrust Act of 1890⁴ was enacted to prevent anticompetitive economic practices such as the creation of monopolies or restraints of trade. The terms of the Sherman Act are broad, and do not expressly exempt government entities, but the Supreme Court has long since ruled that federal principles of dual sovereignty imply that federal antitrust laws do not apply to the actions of states, even if those actions are anticompetitive.⁵

This immunity of states from federal antitrust lawsuits is known as the “state action doctrine.”⁶ The state action doctrine, which was developed by the Supreme Court

³ *North Carolina Dental*, *supra*, 135 S.Ct. at p. 1114.

⁴ 15 U.S.C. §§ 1, 2.

⁵ *Parker v. Brown* (1943) 317 U.S. 341, 350-351.

⁶ It is important to note that the phrase “state action” in this context means something

in *Parker v. Brown*,⁷ establishes three tiers of decision makers, with different thresholds for immunity in each tier.

In the top tier, with the greatest immunity, is the state itself: the sovereign acts of state governments are absolutely immune from antitrust challenge.⁸ Absolute immunity extends, at a minimum, to the state Legislature, the Governor, and the state's Supreme Court.

In the second tier are subordinate state agencies,⁹ such as executive departments and administrative agencies with statewide jurisdiction. State agencies are immune from antitrust challenge if their conduct is undertaken pursuant to a "clearly articulated" and "affirmatively expressed" state policy to displace competition.¹⁰ A state policy is sufficiently clear when displacement of competition is the "inherent, logical, or ordinary result" of the authority delegated by the state legislature.¹¹

The third tier includes private parties acting on behalf of a state, such as the members of a state-created professional licensing board. Private parties may enjoy state action immunity when two conditions are met: (1) their conduct is undertaken pursuant to a "clearly articulated" and "affirmatively expressed" state policy to displace competition, and (2) their conduct is "actively supervised" by the state.¹² The

very different from "state action" for purposes of analysis of a civil rights violation under section 1983 of title 42 of the United States Code. Under section 1983, *liability* attaches to "state action," which may cover even the inadvertent or unilateral act of a state official not acting pursuant to state policy. In the antitrust context, a conclusion that a policy or action amounts to "state action" results in *immunity* from suit.

⁷ *Parker v. Brown*, *supra*, 317 U.S. 341.

⁸ *Hoover v. Ronwin* (1984) 466 U.S. 558, 574, 579-580.

⁹ Distinguishing the state itself from subordinate state agencies has sometimes proven difficult. Compare the majority opinion in *Hoover v. Ronwin*, *supra*, 466 U.S. at p. 581 with dissenting opinion of Stevens, J., at pp. 588-589. (See *Costco v. Maleng* (9th Cir. 2008) 522 F.3d 874, 887, *subseq. hrg.* 538 F.3d 1128; *Charley's Taxi Radio Dispatch Corp. v. SIDA of Haw., Inc.* (9th Cir. 1987) 810 F.2d 869, 875.)

¹⁰ See *Town of Hallie v. City of Eau Claire* (1985) 471 U.S. 34, 39.

¹¹ *F.T.C. v. Phoebe Putney Health Systems, Inc.* (2013) ___ U.S. ___, 133 S.Ct. 1003, 1013; see also *Southern Motor Carriers Rate Conference, Inc. v. U.S.* (1985) 471 U.S. 48, 57 (state policy need not compel specific anticompetitive effect).

¹² *Cal. Retail Liquor Dealers Assn. v. Midcal Aluminum, Inc.* (1980) 445 U.S. 97, 105 (*Midcal*).

fundamental purpose of the supervision requirement is to shelter only those private anticompetitive acts that the state approves as actually furthering its regulatory policies.¹³ To that end, the mere possibility of supervision—such as the existence of a regulatory structure that is not operative, or not resorted to—is not enough. “The active supervision prong . . . requires that state officials have and exercise power to review particular anticompetitive acts of private parties and disapprove those that fail to accord with state policy.”¹⁴

C. State Action Immunity Doctrine After *North Carolina Dental*

Until the Supreme Court decided *North Carolina Dental*, it was widely believed that most professional licensing boards would fall within the second tier of state action immunity, requiring a clear and affirmative policy, but not active state supervision of every anticompetitive decision. In California in particular, there were good arguments that professional licensing boards¹⁵ were subordinate agencies of the state: they are formal, ongoing bodies created pursuant to state law; they are housed within the Department of Consumer Affairs and operate under the Consumer Affairs Director’s broad powers of investigation and control; they are subject to periodic sunset review by the Legislature, to rule-making review under the Administrative Procedure Act, and to administrative and judicial review of disciplinary decisions; their members are appointed by state officials, and include increasingly large numbers of public (non-professional) members; their meetings and records are subject to open-government laws and to strong prohibitions on conflicts of interest; and their enabling statutes generally provide well-guided discretion to make decisions affecting the professional markets that the boards regulate.¹⁶

Those arguments are now foreclosed, however, by *North Carolina Dental*. There, the Court squarely held, for the first time, that “a state board on which a controlling

¹³ *Patrick v. Burget* (1988) 486 U.S. 94, 100-101.

¹⁴ *Ibid.*

¹⁵ California’s Department of Consumer Affairs includes some 25 professional regulatory boards that establish minimum qualifications and levels of competency for licensure in various professions, including accountancy, acupuncture, architecture, medicine, nursing, structural pest control, and veterinary medicine—to name just a few. (See http://www.dca.gov/about_ca/entities.shtml.)

¹⁶ Cf. 1A Areeda & Hovenkamp, *supra*, ¶ 227, p. 208 (what matters is not what the body is called, but its structure, membership, authority, openness to the public, exposure to ongoing review, etc.).

number of decisionmakers are active market participants in the occupation the board regulates must satisfy *Midcal*'s active supervision requirement in order to invoke state-action antitrust immunity."¹⁷ The effect of *North Carolina Dental* is to put professional licensing boards "on which a controlling number of decision makers are active market participants" in the third tier of state-action immunity. That is, they are immune from antitrust actions as long as they act pursuant to clearly articulated state policy to replace competition with regulation of the profession, *and* their decisions are actively supervised by the state.

Thus arises the question presented here: What constitutes "active state supervision"?¹⁸

D. Legal Standards for Active State Supervision

The active supervision requirement arises from the concern that, when active market participants are involved in regulating their own field, "there is a real danger" that they will act to further their own interests, rather than those of consumers or of the state.¹⁹ The purpose of the requirement is to ensure that state action immunity is afforded to private parties only when their actions actually further the state's policies.²⁰

There is no bright-line test for determining what constitutes active supervision of a professional licensing board: the standard is "flexible and context-dependent."²¹ Sufficient supervision "need not entail day-to-day involvement" in the board's operations or "micromanagement of its every decision."²² Instead, the question is whether the review mechanisms that are in place "provide 'realistic assurance'" that the anticompetitive effects of a board's actions promote state policy, rather than the board members' private interests.²³

¹⁷ *North Carolina Dental*, *supra*, 135 S.Ct. at p. 1114; *Midcal*, *supra*, 445 U.S at p. 105.

¹⁸ Questions about whether the State's anticompetitive policies are adequately articulated are beyond the scope of this Opinion.

¹⁹ *Patrick v. Burget*, *supra*, 486 U.S. at p. 100, citing *Town of Hallie v. City of Eau Claire*, *supra*, 471 U.S. at p. 47; see *id.* at p. 45 ("A private party . . . may be presumed to be acting primarily on his or its own behalf").

²⁰ *Patrick v. Burget*, *supra*, 486 U.S. at pp. 100-101.

²¹ *North Carolina Dental*, *supra*, 135 S.Ct. at p. 1116.

²² *Ibid.*

²³ *Ibid.*

The *North Carolina Dental* opinion and pre-existing authorities allow us to identify “a few constant requirements of active supervision”:²⁴

- The state supervisor who reviews a decision must have the power to reverse or modify the decision.²⁵
- The “mere potential” for supervision is not an adequate substitute for supervision.²⁶
- When a state supervisor reviews a decision, he or she must review the substance of the decision, not just the procedures followed to reach it.²⁷
- The state supervisor must not be an active market participant.²⁸

Keeping these requirements in mind may help readers evaluate whether California law already provides adequate supervision for professional licensing boards, or whether new or stronger measures are desirable.

II. Threshold Considerations for Assessing Potential Responses to *North Carolina Dental*

There are a number of different measures that the Legislature might consider in response to the *North Carolina Dental* decision. We will describe a variety of these, along with some of their potential advantages or disadvantages. Before moving on to those options, however, we should put the question of immunity into proper perspective.

²⁴ *Id.* at pp. 1116-1117.

²⁵ *Ibid.*

²⁶ *Id.* at p. 1116, citing *F.T.C. v. Ticor Title Ins. Co.* (1992) 504 U.S. 621, 638. For example, a passive or negative-option review process, in which an action is considered approved as long as the state supervisor raises no objection to it, may be considered inadequate in some circumstances. (*Ibid.*)

²⁷ *Ibid.*, citing *Patrick v. Burget, supra*, 486 U.S. at pp. 102-103. In most cases, there should be some evidence that the state supervisor considered the particular circumstances of the action before making a decision. Ideally, there should be a factual record and a written decision showing that there has been an assessment of the action’s potential impact on the market, and whether the action furthers state policy. (See *In the Matter of Indiana Household Moves and Warehousemen, Inc.* (2008) 135 F.T.C. 535, 555-557; see also Federal Trade Commission, Report of the State Action Task Force (2003) at p. 54.)

²⁸ *North Carolina Dental, supra*, 135 S.Ct. at pp. 1116-1117.

There are two important things keep in mind: (1) the loss of immunity, if it is lost, does not mean that an antitrust violation has been committed, and (2) even when board members participate in regulating the markets they compete in, many—if not most—of their actions do not implicate the federal antitrust laws.

In the context of regulating professions, “market-sensitive” decisions (that is, the kinds of decisions that are most likely to be open to antitrust scrutiny) are those that create barriers to market participation, such as rules or enforcement actions regulating the scope of unlicensed practice; licensing requirements imposing heavy burdens on applicants; marketing programs; restrictions on advertising; restrictions on competitive bidding; restrictions on commercial dealings with suppliers and other third parties; and price regulation, including restrictions on discounts.

On the other hand, we believe that there are broad areas of operation where board members can act with reasonable confidence—especially once they and their state-official contacts have been taught to recognize actual antitrust issues, and to treat those issues specially. Broadly speaking, promulgation of regulations is a fairly safe area for board members, because of the public notice, written justification, Director review, and review by the Office of Administrative Law as required by the Administrative Procedure Act. Also, broadly speaking, disciplinary decisions are another fairly safe area because of due process procedures; participation of state actors such as board executive officers, investigators, prosecutors, and administrative law judges; and availability of administrative mandamus review.

We are not saying that the procedures that attend these quasi-legislative and quasi-judicial functions make the licensing boards altogether immune from antitrust claims. Nor are we saying that rule-making and disciplinary actions are per se immune from antitrust laws. What we are saying is that, assuming a board identifies its market-sensitive decisions and gets active state supervision for those, then ordinary rule-making and discipline (faithfully carried out under the applicable rules) may be regarded as relatively safe harbors for board members to operate in. It may require some education and experience for board members to understand the difference between market-sensitive and “ordinary” actions, but a few examples may bring in some light.

North Carolina Dental presents a perfect example of a market-sensitive action. There, the dental board decided to, and actually succeeded in, driving non-dentist teeth-whitening service providers out of the market, even though nothing in North Carolina’s laws specified that teeth-whitening constituted the illegal practice of dentistry. Counter-examples—instances where no antitrust violation occurs—are far more plentiful. For example, a regulatory board may legitimately make rules or impose discipline to prohibit license-holders from engaging in fraudulent business practices (such as untruthful or

deceptive advertising) without violating antitrust laws.²⁹ As well, suspending the license of an individual license-holder for violating the standards of the profession is a reasonable restraint and has virtually no effect on a large market, and therefore would not violate antitrust laws.³⁰

Another area where board members can feel safe is in carrying out the actions required by a detailed anticompetitive statutory scheme.³¹ For example, a state law prohibiting certain kinds of advertising or requiring certain fees may be enforced without need for substantial judgment or deliberation by the board. Such detailed legislation leaves nothing for the state to supervise, and thus it may be said that the legislation itself satisfies the supervision requirement.³²

Finally, some actions will not be antitrust violations because their effects are, in fact, pro-competitive rather than anti-competitive. For instance, the adoption of safety standards that are based on objective expert judgments have been found to be pro-competitive.³³ Efficiency measures taken for the benefit of consumers, such as making information available to the purchasers of competing products, or spreading development costs to reduce per-unit prices, have been held to be pro-competitive because they are pro-consumer.³⁴

III. Potential Measures for Preserving State Action Immunity

A. Changes to the Composition of Boards

The *North Carolina Dental* decision turns on the principle that a state board is a group of private actors, not a subordinate state agency, when “a controlling number of decisionmakers are active market participants in the occupation the board regulates.”³⁵

²⁹ See generally *California Dental Assn. v. F.T.C.* (1999) 526 U.S. 756.

³⁰ See *Oksanen v. Page Memorial Hospital* (4th Cir. 1999) 945 F.2d 696 (*en banc*).

³¹ See *324 Liquor Corp. v. Duffy* (1987) 479 U.S. 335, 344, fn. 6.

³² 1A Areeda & Hovenkamp, *Antitrust Law, supra*, ¶ 221, at p. 66; ¶ 222, at pp. 67, 76.

³³ See *Allied Tube & Conduit Corp. v. Indian Head, Inc.* (1988) 486 U.S. 492, 500-501.

³⁴ *Broadcom Corp. v. Qualcomm Inc.* (3rd Cir. 2007) 501 F.3d 297, 308-309; see generally Bus. & Prof. Code, § 301.

³⁵ 135 S.Ct. at p. 1114.

This ruling brings the composition of boards into the spotlight. While many boards in California currently require a majority of public members, it is still the norm for professional members to outnumber public members on boards that regulate healing-arts professions. In addition, delays in identifying suitable public-member candidates and in filling public seats can result in de facto market-participant majorities.

In the wake of *North Carolina Dental*, many observers' first impulse was to assume that reforming the composition of professional boards would be the best resolution, both for state actors and for consumer interests. Upon reflection, however, it is not obvious that sweeping changes to board composition would be the most effective solution.³⁶

Even if the Legislature were inclined to decrease the number of market-participant board members, the current state of the law does not allow us to project accurately how many market-participant members is too many. This is a question that was not resolved by the *North Carolina Dental* decision, as the dissenting opinion points out:

What is a “controlling number”? Is it a majority? And if so, why does the Court eschew that term? Or does the Court mean to leave open the possibility that something less than a majority might suffice in particular circumstances? Suppose that active market participants constitute a voting bloc that is generally able to get its way? How about an obstructionist minority or an agency chair empowered to set the agenda or veto regulations?³⁷

Some observers believe it is safe to assume that the *North Carolina Dental* standard would be satisfied if public members constituted a majority of a board. The

³⁶ Most observers believe that there are real advantages in staffing boards with professionals in the field. The combination of technical expertise, practiced judgment, and orientation to prevailing ethical norms is probably impossible to replicate on a board composed entirely of public members. Public confidence must also be considered. Many consumers would no doubt share the sentiments expressed by Justice Breyer during oral argument in the *North Carolina Dental* case: “[W]hat the State says is: We would like this group of brain surgeons to decide who can practice brain surgery in this State. I don’t want a group of bureaucrats deciding that. I would like brain surgeons to decide that.” (*North Carolina Dental*, *supra*, transcript of oral argument p. 31, available at http://www.supremecourt.gov/oral_arguments/argument_transcripts/13-534_16h1.pdf (hereafter, Transcript).)

³⁷ *North Carolina Dental*, *supra*, 135 S.Ct. at p. 1123 (dis. opn. of Alito, J).

obvious rejoinder to that argument is that the Court pointedly did not use the term “majority;” it used “controlling number.” More cautious observers have suggested that “controlling number” should be taken to mean the majority of a quorum, at least until the courts give more guidance on the matter.

North Carolina Dental leaves open other questions about board composition as well. One of these is: Who is an “active market participant”?³⁸ Would a retired member of the profession no longer be a participant of the market? Would withdrawal from practice during a board member’s term of service suffice? These questions were discussed at oral argument,³⁹ but were not resolved. Also left open is the scope of the market in which a member may not participate while serving on the board.⁴⁰

Over the past four decades, California has moved decisively to expand public membership on licensing boards.⁴¹ The change is generally agreed to be a salutary one for consumers, and for underserved communities in particular.⁴² There are many good reasons to consider continuing the trend to increase public membership on licensing boards—but we believe a desire to ensure immunity for board members should not be the decisive factor. As long as the legal questions raised by *North Carolina Dental* remain unresolved, radical changes to board composition are likely to create a whole new set of policy and practical challenges, with no guarantee of resolving the immunity problem.

B. Some Mechanisms for Increasing State Supervision

Observers have proposed a variety of mechanisms for building more state oversight into licensing boards’ decision-making processes. In considering these alternatives, it may be helpful to bear in mind that licensing boards perform a variety of

³⁸ *Ibid.*

³⁹ Transcript, *supra*, at p. 31.

⁴⁰ *North Carolina Dental*, *supra*, 135 S.Ct. at p. 1123 (dis. opn. of Alito, J). Some observers have suggested that professionals from one practice area might be appointed to serve on the board regulating another practice area, in order to bring their professional expertise to bear in markets where they are not actively competing.

⁴¹ See Center for Public Interest Law, *A Guide to California’s Health Care Licensing Boards* (July 2009) at pp. 1-2; Shimberg, *Occupational Licensing: A Public Perspective* (1982) at pp. 163-165.

⁴² See Center for Public Interest Law, *supra*, at pp. 15-17; Shimberg, *supra*, at pp. 175-179.

distinct functions, and that different supervisory structures may be appropriate for different functions.

For example, boards may develop and enforce standards for licensure; receive, track, and assess trends in consumer complaints; perform investigations and support administrative and criminal prosecutions; adjudicate complaints and enforce disciplinary measures; propose regulations and shepherd them through the regulatory process; perform consumer education; and more. Some of these functions are administrative in nature, some are quasi-judicial, and some are quasi-legislative. Boards' quasi-judicial and quasi-legislative functions, in particular, are already well supported by due process safeguards and other forms of state supervision (such as vertical prosecutions, administrative mandamus procedures, and public notice and scrutiny through the Administrative Procedure Act). Further, some functions are less likely to have antitrust implications than others: decisions affecting only a single license or licensee in a large market will rarely have an anticompetitive effect within the meaning of the Sherman Act. For these reasons, it is worth considering whether it is less urgent, or not necessary at all, to impose additional levels of supervision with respect to certain functions.

Ideas for providing state oversight include the concept of a superagency, such as a stand-alone office, or a committee within a larger agency, which has full responsibility for reviewing board actions *de novo*. Under such a system, the boards could be permitted to carry on with their business as usual, except that they would be required to refer each of their decisions (or some subset of decisions) to the superagency for its review. The superagency could review each action file submitted by the board, review the record and decision in light of the state's articulated regulatory policies, and then issue its own decision approving, modifying, or vetoing the board's action.

Another concept is to modify the powers of the boards themselves, so that all of their functions (or some subset of functions) would be advisory only. Under such a system, the boards would not take formal actions, but would produce a record and a recommendation for action, perhaps with proposed findings and conclusions. The recommendation file would then be submitted to a supervising state agency for its further consideration and formal action, if any.

Depending on the particular powers and procedures of each system, either could be tailored to encourage the development of written records to demonstrate executive discretion; access to administrative mandamus procedures for appeal of decisions; and the development of expertise and collaboration among reviewers, as well as between the reviewers and the boards that they review. Under any system, care should be taken to structure review functions so as to avoid unnecessary duplication or conflicts with other agencies and departments, and to minimize the development of super-policies not

adequately tailored to individual professions and markets. To prevent the development of “rubber-stamp” decisions, any acceptable system must be designed and sufficiently staffed to enable plenary review of board actions or recommendations at the individual transactional level.

As it stands, California is in a relatively advantageous position to create these kinds of mechanisms for active supervision of licensing boards. With the boards centrally housed within the Department of Consumer Affairs (an “umbrella agency”), there already exists an organization with good knowledge and experience of board operations, and with working lines of communication and accountability. It is worth exploring whether existing resources and minimal adjustments to procedures and outlooks might be converted to lines of active supervision, at least for the boards’ most market-sensitive actions.

Moreover, the Business and Professions Code already demonstrates an intention that the Department of Consumer Affairs will protect consumer interests as a means of promoting “the fair and efficient functioning of the free enterprise market economy” by educating consumers, suppressing deceptive and fraudulent practices, fostering competition, and representing consumer interests at all levels of government.⁴³ The free-market and consumer-oriented principles underlying *North Carolina Dental* are nothing new to California, and no bureaucratic paradigms need to be radically shifted as a result.

The Business and Professions Code also gives broad powers to the Director of Consumer Affairs (and his or her designees)⁴⁴ to protect the interests of consumers at every level.⁴⁵ The Director has power to investigate the work of the boards and to obtain their data and records;⁴⁶ to investigate alleged misconduct in licensing examinations and qualifications reviews;⁴⁷ to require reports;⁴⁸ to receive consumer complaints⁴⁹ and to initiate audits and reviews of disciplinary cases and complaints about licensees.⁵⁰

⁴³ Bus. & Prof. Code, § 301.

⁴⁴ Bus. & Prof. Code, §§ 10, 305.

⁴⁵ See Bus. & Prof. Code, § 310.

⁴⁶ Bus. & Prof. Code, § 153.

⁴⁷ Bus. & Prof. Code, § 109.

⁴⁸ Bus. & Prof. Code, § 127.

⁴⁹ Bus. & Prof. Code, § 325.

⁵⁰ Bus. & Prof. Code, § 116.

In addition, the Director must be provided a full opportunity to review all proposed rules and regulations (except those relating to examinations and licensure qualifications) before they are filed with the Office of Administrative Law, and the Director may disapprove any proposed regulation on the ground that it is injurious to the public.⁵¹ Whenever the Director (or his or her designee) actually exercises one of these powers to reach a substantive conclusion as to whether a board's action furthers an affirmative state policy, then it is safe to say that the active supervision requirement has been met.⁵²

It is worth considering whether the Director's powers should be amended to make review of certain board decisions mandatory as a matter of course, or to make the Director's review available upon the request of a board. It is also worth considering whether certain existing limitations on the Director's powers should be removed or modified. For example, the Director may investigate allegations of misconduct in examinations or qualification reviews, but the Director currently does not appear to have power to review board decisions in those areas, or to review proposed rules in those areas.⁵³ In addition, the Director's power to initiate audits and reviews appears to be limited to disciplinary cases and complaints about licensees.⁵⁴ If the Director's initiative is in fact so limited, it is worth considering whether that limitation continues to make sense. Finally, while the Director must be given a full opportunity to review most proposed regulations, the Director's disapproval may be overridden by a unanimous vote of the board.⁵⁵ It is worth considering whether the provision for an override maintains its utility, given that such an override would nullify any "active supervision" and concomitant immunity that would have been gained by the Director's review.⁵⁶

⁵¹ Bus. & Prof. Code, § 313.1.

⁵² Although a written statement of decision is not specifically required by existing legal standards, developing a practice of creating an evidentiary record and statement of decision would be valuable for many reasons, not the least of which would be the ability to proffer the documents to a court in support of a motion asserting state action immunity.

⁵³ Bus. & Prof. Code, §§ 109, 313.1.

⁵⁴ Bus. & Prof. Code, § 116.

⁵⁵ Bus. & Prof. Code, § 313.1.

⁵⁶ Even with an override, proposed regulations are still subject to review by the Office of Administrative Law.

C. Legislation Granting Immunity

From time to time, states have enacted laws expressly granting immunity from antitrust laws to political subdivisions, usually with respect to a specific market.⁵⁷ However, a statute purporting to grant immunity to private persons, such as licensing board members, would be of doubtful validity. Such a statute might be regarded as providing adequate authorization for anticompetitive activity, but active state supervision would probably still be required to give effect to the intended immunity. What is quite clear is that a state cannot grant blanket immunity by fiat. “[A] state does not give immunity to those who violate the Sherman Act by authorizing them to violate it, or by declaring that their action is lawful”⁵⁸

IV. Indemnification of Board Members

So far we have focused entirely on the concept of immunity, and how to preserve it. But immunity is not the only way to protect state employees from the costs of suit, or to provide the reassurance necessary to secure their willingness and ability to perform their duties. Indemnification can also go a long way toward providing board members the protection they need to do their jobs. It is important for policy makers to keep this in mind in weighing the costs of creating supervision structures adequate to ensure blanket state action immunity for board members. If the costs of implementing a given supervisory structure are especially high, it makes sense to consider whether immunity is an absolute necessity, or whether indemnification (with or without additional risk-management measures such as training or reporting) is an adequate alternative.

As the law currently stands, the state has a duty to defend and indemnify members of licensing boards against antitrust litigation to the same extent, and subject to the same exceptions, that it defends and indemnifies state officers and employees in general civil litigation. The duty to defend and indemnify is governed by the Government Claims Act.⁵⁹ For purposes of the Act, the term “employee” includes officers and uncompensated servants.⁶⁰ We have repeatedly determined that members of a board,

⁵⁷ See 1A Areeda & Hovenkamp, *Antitrust Law*, *supra*, 225, at pp. 135-137; e.g. *AI Ambulance Service, Inc. v. County of Monterey* (9th Cir. 1996) 90 F.3d 333, 335 (discussing Health & Saf. Code, § 1797.6).

⁵⁸ *Parker v. Brown*, *supra*, 317 U.S. at 351.

⁵⁹ Gov. Code, §§ 810-996.6.

⁶⁰ See Gov. Code § 810.2.

commission, or similar body established by statute are employees entitled to defense and indemnification.⁶¹

A. Duty to Defend

Public employees are generally entitled to have their employer provide for the defense of any civil action “on account of an act or omission in the scope” of employment.⁶² A public entity may refuse to provide a defense in specified circumstances, including where the employee acted due to “actual fraud, corruption, or actual malice.”⁶³ The duty to defend contains no exception for antitrust violations.⁶⁴ Further, violations of antitrust laws do not inherently entail the sort of egregious behavior that would amount to fraud, corruption, or actual malice under state law. There would therefore be no basis to refuse to defend an employee on the bare allegation that he or she violated antitrust laws.

B. Duty to Indemnify

The Government Claims Act provides that when a public employee properly requests the employer to defend a claim, and reasonably cooperates in the defense, “the public entity shall pay any judgment based thereon or any compromise or settlement of the claim or action to which the public entity has agreed.”⁶⁵ In general, the government is liable for an injury proximately caused by an act within the scope of employment,⁶⁶ but is not liable for punitive damages.⁶⁷

One of the possible remedies for an antitrust violation is an award of treble damages to a person whose business or property has been injured by the violation.⁶⁸ This raises a question whether a treble damages award equates to an award of punitive damages within the meaning of the Government Claims Act. Although the answer is not

⁶¹ E.g., 81 Ops.Cal.Atty.Gen. 199, 200 (1998); 57 Ops.Cal.Atty.Gen. 358, 361 (1974).

⁶² Gov. Code, § 995.

⁶³ Gov. Code, § 995.2, subd. (a).

⁶⁴ Cf. *Mt. Hawley Insurance Co. v. Lopez* (2013) 215 Cal.App.4th 1385 (discussing Ins. Code, § 533.5).

⁶⁵ Gov. Code, § 825, subd. (a).

⁶⁶ Gov. Code, § 815.2.

⁶⁷ Gov. Code, § 818.

⁶⁸ 15 U.S.C. § 15(a).

entirely certain, we believe that antitrust treble damages do *not* equate to punitive damages.

The purposes of treble damage awards are to deter anticompetitive behavior and to encourage private enforcement of antitrust laws.⁶⁹ And, an award of treble damages is automatic once an antitrust violation is proved.⁷⁰ In contrast, punitive damages are “uniquely justified by and proportioned to the actor’s particular reprehensible conduct as well as that person or entity’s net worth . . . in order to adequately make the award ‘sting’”⁷¹ Also, punitive damages in California must be premised on a specific finding of malice, fraud, or oppression.⁷² In our view, the lack of a malice or fraud element in an antitrust claim, and the immateriality of a defendant’s particular conduct or net worth to the treble damage calculation, puts antitrust treble damages outside the Government Claims Act’s definition of punitive damages.⁷³

C. Possible Improvements to Indemnification Scheme

As set out above, state law provides for the defense and indemnification of board members to the same extent as other state employees. This should go a long way toward reassuring board members and potential board members that they will not be exposed to undue risk if they act reasonably and in good faith. This reassurance cannot be complete, however, as long as board members face significant uncertainty about how much litigation they may have to face, or about the status of treble damage awards.

Uncertainty about the legal status of treble damage awards could be reduced significantly by amending state law to specify that treble damage antitrust awards are not punitive damages within the meaning of the Government Claims Act. This would put them on the same footing as general damages awards, and thereby remove any uncertainty as to whether the state would provide indemnification for them.⁷⁴

⁶⁹ *Clayworth v. Pfizer, Inc.* (2010) 49 Cal.4th 758, 783-784 (individual right to treble damages is “incidental and subordinate” to purposes of deterrence and vigorous enforcement).

⁷⁰ 15 U.S.C. § 15(a).

⁷¹ *Piscitelli v. Friedenber*g (2001) 87 Cal.App.4th 953, 981-982.

⁷² Civ. Code, §§ 818, 3294.

⁷³ If treble damages awards were construed as constituting punitive damages, the state would still have the option of paying them under Government Code section 825.

⁷⁴ Ideally, treble damages should not be available at all against public entities and public officials. Since properly articulated and supervised anticompetitive behavior is

As a complement to indemnification, the potential for board member liability may be greatly reduced by introducing antitrust concepts to the required training and orientation programs that the Department of Consumer Affairs provides to new board members.⁷⁵ When board members share an awareness of the sensitivity of certain kinds of actions, they will be in a much better position to seek advice and review (that is, active supervision) from appropriate officials. They will also be far better prepared to assemble evidence and to articulate reasons for the decisions they make in market-sensitive areas. With training and practice, boards can be expected to become as proficient in making and demonstrating sound market decisions, and ensuring proper review of those decisions, as they are now in making and defending sound regulatory and disciplinary decisions.

V. Conclusions

North Carolina Dental has brought both the composition of licensing boards and the concept of active state supervision into the public spotlight, but the standard it imposes is flexible and context-specific. This leaves the state with many variables to consider in deciding how to respond.

Whatever the chosen response may be, the state can be assured that *North Carolina Dental*'s "active state supervision" requirement is satisfied when a non-market-

permitted to the state and its agents, the deterrent purpose of treble damages does not hold in the public arena. Further, when a state indemnifies board members, treble damages go not against the board members but against public coffers. "It is a grave act to make governmental units potentially liable for massive treble damages when, however 'proprietary' some of their activities may seem, they have fundamental responsibilities to their citizens for the provision of life-sustaining services such as police and fire protection." (*City of Lafayette, La. v. Louisiana Power & Light Co.* (1978) 435 U.S. 389, 442 (dis. opn. of Blackmun, J).)

In response to concerns about the possibility of treble damage awards against municipalities, Congress passed the Local Government Antitrust Act (15 U.S.C. §§ 34-36), which provides that local governments and their officers and employees cannot be held liable for treble damages, compensatory damages, or attorney's fees. (See H.R. Rep. No. 965, 2nd Sess., p. 11 (1984).) For an argument that punitive sanctions should never be levied against public bodies and officers under the Sherman Act, see 1A Areeda & Hovenkamp, *supra*, ¶ 228, at pp. 214-226. Unfortunately, because treble damages are a product of federal statute, this problem is not susceptible of a solution by state legislation.

⁷⁵ Bus. & Prof. Code, § 453.

participant state official has and exercises the power to substantively review a board's action and determines whether the action effectuates the state's regulatory policies.

FTC Staff Guidance on Active Supervision of State Regulatory Boards Controlled by Market Participants*

I. Introduction

States craft regulatory policy through a variety of actors, including state legislatures, courts, agencies, and regulatory boards. While most regulatory actions taken by state actors will not implicate antitrust concerns, some will. Notably, states have created a large number of regulatory boards with the authority to determine who may engage in an occupation (*e.g.*, by issuing or withholding a license), and also to set the rules and regulations governing that occupation. Licensing, once limited to a few learned professions such as doctors and lawyers, is now required for over 800 occupations including (in some states) locksmiths, beekeepers, auctioneers, interior designers, fortune tellers, tour guides, and shampooers.¹

In general, a state may avoid all conflict with the federal antitrust laws by creating regulatory boards that serve only in an advisory capacity, or by staffing a regulatory board exclusively with persons who have no financial interest in the occupation that is being regulated. However, across the United States, “licensing boards are largely dominated by active members of their respective industries . . .”² That is, doctors commonly regulate doctors, beekeepers commonly regulate beekeepers, and tour guides commonly regulate tour guides.

Earlier this year, the U.S. Supreme Court upheld the Federal Trade Commission’s determination that the North Carolina State Board of Dental Examiners (“NC Board”) violated the federal antitrust laws by preventing non-dentists from providing teeth whitening services in competition with the state’s licensed dentists. *N.C. State Bd. of Dental Exam’rs v. FTC*, 135 S. Ct. 1101 (2015). NC Board is a state agency established under North Carolina law and charged with administering and enforcing a licensing system for dentists. A majority of the members of this state agency are themselves practicing dentists, and thus they have a private incentive to limit

* This document sets out the views of the Staff of the Bureau of Competition. The Federal Trade Commission is not bound by this Staff guidance and reserves the right to rescind it at a later date. In addition, FTC Staff reserves the right to reconsider the views expressed herein, and to modify, rescind, or revoke this Staff guidance if such action would be in the public interest.

¹ Aaron Edlin & Rebecca Haw, *Cartels By Another Name: Should Licensed Occupations Face Antitrust Scrutiny*, 162 U. PA. L. REV. 1093, 1096 (2014).

² *Id.* at 1095.

competition from non-dentist providers of teeth whitening services. NC Board argued that, because it is a state agency, it is exempt from liability under the federal antitrust laws. That is, the NC Board sought to invoke what is commonly referred to as the “state action exemption” or the “state action defense.” The Supreme Court rejected this contention and affirmed the FTC’s finding of antitrust liability.

In this decision, the Supreme Court clarified the applicability of the antitrust state action defense to state regulatory boards controlled by market participants:

“The Court holds today that a state board on which a controlling number of decisionmakers are active market participants in the occupation the board regulates must satisfy *Midcal’s* [*Cal. Retail Liquor Dealers Ass’n v. Midcal Aluminum, Inc.*, 445 U.S. 97 (1980)] active supervision requirement in order to invoke state-action antitrust immunity.” *N.C. Dental*, 135 S. Ct. at 1114.

In the wake of this Supreme Court decision, state officials have requested advice from the Federal Trade Commission regarding antitrust compliance for state boards responsible for regulating occupations. This outline provides FTC Staff guidance on two questions. *First*, when does a state regulatory board require active supervision in order to invoke the state action defense? *Second*, what factors are relevant to determining whether the active supervision requirement is satisfied?

Our answers to these questions come with the following caveats.

- Vigorous competition among sellers in an open marketplace generally provides consumers with important benefits, including lower prices, higher quality services, greater access to services, and increased innovation. For this reason, a state legislature should empower a regulatory board to restrict competition only when necessary to protect against a credible risk of harm, such as health and safety risks to consumers. The Federal Trade Commission and its staff have frequently advocated that states avoid unneeded and burdensome regulation of service providers.³
- Federal antitrust law does not require that a state legislature provide for active supervision of any state regulatory board. A state legislature may, and generally should, prefer that a regulatory board be subject to the requirements of the federal antitrust

³ See, e.g., Fed. Trade Comm’n Staff Policy Paper, *Policy Perspectives: Competition and the Regulation of Advanced Practice Registered Nurses* (Mar. 2014), <https://www.ftc.gov/system/files/documents/reports/policy-perspectives-competition-regulation-advanced-practice-nurses/140307aprnpolicypaper.pdf>; Fed. Trade Comm’n & U.S. Dept. of Justice, Comment before the South Carolina Supreme Court Concerning Proposed Guidelines for Residential and Commercial Real Estate Closings (Apr. 2008), <https://www.ftc.gov/news-events/press-releases/2008/04/ftcdoj-submit-letter-supreme-court-south-carolina-proposed>.

laws. If the state legislature determines that a regulatory board should be subject to antitrust oversight, then the state legislature need not provide for active supervision.

- Antitrust analysis – including the applicability of the state action defense – is fact-specific and context-dependent. The purpose of this document is to identify certain overarching legal principles governing when and how a state may provide active supervision for a regulatory board. We are not suggesting a mandatory or one-size-fits-all approach to active supervision. Instead, we urge each state regulatory board to consult with the Office of the Attorney General for its state for customized advice on how best to comply with the antitrust laws.
- This FTC Staff guidance addresses only the active supervision prong of the state action defense. In order successfully to invoke the state action defense, a state regulatory board controlled by market participants must also satisfy the clear articulation prong, as described briefly in Section II. below.
- This document contains guidance developed by the staff of the Federal Trade Commission. Deviation from this guidance does not necessarily mean that the state action defense is inapplicable, or that a violation of the antitrust laws has occurred.

II. Overview of the Antitrust State Action Defense

“Federal antitrust law is a central safeguard for the Nation’s free market structures The antitrust laws declare a considered and decisive prohibition by the Federal Government of cartels, price fixing, and other combinations or practices that undermine the free market.” *N.C. Dental*, 135 S. Ct. at 1109.

Under principles of federalism, “the States possess a significant measure of sovereignty.” *N.C. Dental*, 135 S. Ct. at 1110 (quoting *Community Communications Co. v. Boulder*, 455 U.S. 40, 53 (1982)). In enacting the antitrust laws, Congress did not intend to prevent the States from limiting competition in order to promote other goals that are valued by their citizens. Thus, the Supreme Court has concluded that the federal antitrust laws do not reach anticompetitive conduct engaged in by a State that is acting in its sovereign capacity. *Parker v. Brown*, 317 U.S. 341, 351-52 (1943). For example, a state legislature may “impose restrictions on occupations, confer exclusive or shared rights to dominate a market, or otherwise limit competition to achieve public objectives.” *N.C. Dental*, 135 S. Ct. at 1109.

Are the actions of a state regulatory board, like the actions of a state legislature, exempt from the application of the federal antitrust laws? In *North Carolina State Board of Dental Examiners*, the Supreme Court reaffirmed that a state regulatory board is not the sovereign. Accordingly, a state regulatory board is not necessarily exempt from federal antitrust liability.

More specifically, the Court determined that “a state board on which a controlling number of decisionmakers are active market participants in the occupation the board regulates” may invoke the state action defense only when two requirements are satisfied: first, the challenged restraint must be clearly articulated and affirmatively expressed as state policy; and second, the policy must be actively supervised by a state official (or state agency) that is not a participant in the market that is being regulated. *N.C. Dental*, 135 S. Ct. at 1114.

- The Supreme Court addressed the clear articulation requirement most recently in *FTC v. Phoebe Putney Health Sys., Inc.*, 133 S. Ct. 1003 (2013). The clear articulation requirement is satisfied “where the displacement of competition [is] the inherent, logical, or ordinary result of the exercise of authority delegated by the state legislature. In that scenario, the State must have foreseen and implicitly endorsed the anticompetitive effects as consistent with its policy goals.” *Id.* at 1013.
- The State’s clear articulation of the intent to displace competition is not alone sufficient to trigger the state action exemption. The state legislature’s clearly-articulated delegation of authority to a state regulatory board to displace competition may be “defined at so high a level of generality as to leave open critical questions about how

and to what extent the market should be regulated.” There is then a danger that this delegated discretion will be used by active market participants to pursue private interests in restraining trade, in lieu of implementing the State’s policy goals. *N.C. Dental*, 135 S. Ct. at 1112.

➤ The active supervision requirement “seeks to avoid this harm by requiring the State to review and approve interstitial policies made by the entity claiming [antitrust] immunity.” *Id.*

Where the state action defense does not apply, the actions of a state regulatory board controlled by active market participants may be subject to antitrust scrutiny. Antitrust issues may arise where an unsupervised board takes actions that restrict market entry or restrain rivalry. The following are some scenarios that have raised antitrust concerns:

- A regulatory board controlled by dentists excludes non-dentists from competing with dentists in the provision of teeth whitening services. *Cf. N.C. Dental*, 135 S. Ct. 1101.
- A regulatory board controlled by accountants determines that only a small and fixed number of new licenses to practice the profession shall be issued by the state each year. *Cf. Hoover v. Ronwin*, 466 U.S. 558 (1984).
- A regulatory board controlled by attorneys adopts a regulation (or a code of ethics) that prohibits attorney advertising, or that deters attorneys from engaging in price competition. *Cf. Bates v. State Bar of Ariz.*, 433 U.S. 350 (1977); *Goldfarb v. Va. State Bar*, 421 U.S. 773 (1975).

III. Scope of FTC Staff Guidance

- A. This Staff guidance addresses the applicability of the state action defense under the federal antitrust laws. Concluding that the state action defense is inapplicable does not mean that the conduct of the regulatory board necessarily violates the federal antitrust laws. A regulatory board may assert defenses ordinarily available to an antitrust defendant.

1. Reasonable restraints on competition do not violate the antitrust laws, even where the economic interests of a competitor have been injured.

Example 1: A regulatory board may prohibit members of the occupation from engaging in fraudulent business practices without raising antitrust concerns. A regulatory board also may prohibit members of the occupation from engaging in untruthful or deceptive advertising. *Cf. Cal. Dental Ass'n v. FTC*, 526 U.S. 756 (1999).

Example 2: Suppose a market with several hundred licensed electricians. If a regulatory board suspends the license of one electrician for substandard work, such action likely does not unreasonably harm competition. *Cf. Oksanen v. Page Mem'l Hosp.*, 945 F.2d 696 (4th Cir. 1991) (en banc).

2. The ministerial (non-discretionary) acts of a regulatory board engaged in good faith implementation of an anticompetitive statutory regime do not give rise to antitrust liability. See 324 Liquor Corp. v. Duffy, 479 U.S. 335, 344 n. 6 (1987).

Example 3: A state statute requires that an applicant for a chauffeur's license submit to the regulatory board, among other things, a copy of the applicant's diploma and a certified check for \$500. An applicant fails to submit the required materials. If for this reason the regulatory board declines to issue a chauffeur's license to the applicant, such action would not be considered an unreasonable restraint. In the circumstances described, the denial of a license is a ministerial or non-discretionary act of the regulatory board.

3. In general, the initiation and prosecution of a lawsuit by a regulatory board does not give rise to antitrust liability unless it falls within the "sham exception." Professional Real Estate Investors v. Columbia Pictures Industries, 508 U.S. 49 (1993); California Motor Transport Co. v. Trucking Unlimited, 404 U.S. 508 (1972).

Example 4: A state statute authorizes the state's dental board to maintain an action in state court to enjoin an unlicensed person from practicing dentistry. The members of the dental board have a basis to believe that a particular individual is practicing dentistry but does not hold a valid license. If the dental board files a lawsuit against that individual, such action would not constitute a violation of the federal antitrust laws.

- B. Below, FTC Staff describes when active supervision of a state regulatory board is required in order successfully to invoke the state action defense, and what factors are relevant to determining whether the active supervision requirement has been satisfied.

1. When is active state supervision of a state regulatory board required in order to invoke the state action defense?

General Standard: “[A] state board on which a controlling number of decisionmakers are active market participants in the occupation the board regulates must satisfy *Midcal*’s active supervision requirement in order to invoke state-action antitrust immunity.” *N.C. Dental*, 135 S. Ct. at 1114.

Active Market Participants: A member of a state regulatory board will be considered to be an active market participant in the occupation the board regulates if such person (i) is licensed by the board or (ii) provides any service that is subject to the regulatory authority of the board.

- If a board member participates in any professional or occupational sub-specialty that is regulated by the board, then that board member is an active market participant for purposes of evaluating the active supervision requirement.
- It is no defense to antitrust scrutiny, therefore, that the board members themselves are not directly or personally affected by the challenged restraint. For example, even if the members of the NC Dental Board were orthodontists who do not perform teeth whitening services (as a matter of law or fact or tradition), their control of the dental board would nevertheless trigger the requirement for active state supervision. This is because these orthodontists are licensed by, and their services regulated by, the NC Dental Board.
- A person who temporarily suspends her active participation in an occupation for the purpose of serving on a state board that regulates her former (and intended future) occupation will be considered to be an active market participant.

Method of Selection: The method by which a person is selected to serve on a state regulatory board is not determinative of whether that person is an active market participant in the occupation that the board regulates. For example, a licensed dentist is deemed to be an active market participant regardless of whether the dentist (i) is appointed to the state dental board by the governor or (ii) is elected to the state dental board by the state’s licensed dentists.

A Controlling Number, Not Necessarily a Majority, of Actual Decisionmakers:

- Active market participants need not constitute a numerical majority of the members of a state regulatory board in order to trigger the requirement of active supervision. A decision that is controlled, either as a matter of law, procedure, or fact, by active participants in the regulated market (*e.g.*, through veto power, tradition, or practice) must be actively supervised to be eligible for the state action defense.
- Whether a particular restraint has been imposed by a “controlling number of decisionmakers [who] are active market participants” is a fact-bound inquiry that must be made on a case-by-case basis. FTC Staff will evaluate a number of factors, including:
 - ✓ The structure of the regulatory board (including the number of board members who are/are not active market participants) and the rules governing the exercise of the board’s authority.
 - ✓ Whether the board members who are active market participants have veto power over the board’s regulatory decisions.

Example 5: The state board of electricians consists of four non-electrician members and three practicing electricians. Under state law, new regulations require the approval of five board members. Thus, no regulation may become effective without the assent of at least one electrician member of the board. In this scenario, the active market participants effectively have veto power over the board’s regulatory authority. The active supervision requirement is therefore applicable.

- ✓ The level of participation, engagement, and authority of the non-market participant members in the business of the board – generally and with regard to the particular restraint at issue.
- ✓ Whether the participation, engagement, and authority of the non-market participant board members in the business of the board differs from that of board members who are active market participants – generally and with regard to the particular restraint at issue.
- ✓ Whether the active market participants have in fact exercised, controlled, or usurped the decisionmaking power of the board.

Example 6: The state board of electricians consists of four non-electrician members and three practicing electricians. Under state law, new regulations require the approval of a majority of board members. When voting on proposed regulations, the non-electrician members routinely defer to the preferences of the electrician members. Minutes of

board meetings show that the non-electrician members generally are not informed or knowledgeable concerning board business – and that they were not well informed concerning the particular restraint at issue. In this scenario, FTC Staff may determine that the active market participants have exercised the decisionmaking power of the board, and that the active supervision requirement is applicable.

Example 7: The state board of electricians consists of four non-electrician members and three practicing electricians. Documents show that the electrician members frequently meet and discuss board business separately from the non-electrician members. On one such occasion, the electrician members arranged for the issuance by the board of written orders to six construction contractors, directing such individuals to cease and desist from providing certain services. The non-electrician members of the board were not aware of the issuance of these orders and did not approve the issuance of these orders. In this scenario, FTC Staff may determine that the active market participants have exercised the decisionmaking power of the board, and that the active supervision requirement is applicable.

2. What constitutes active supervision?

FTC Staff will be guided by the following principles:

- “[T]he purpose of the active supervision inquiry . . . is to determine whether the State has exercised sufficient independent judgment and control” such that the details of the regulatory scheme “have been established as a product of deliberate state intervention” and not simply by agreement among the members of the state board. “Much as in causation inquiries, the analysis asks whether the State has played a substantial role in determining the specifics of the economic policy.” The State is not obliged to “[meet] some normative standard, such as efficiency, in its regulatory practices.” *Ticor*, 504 U.S. at 634-35. “The question is not how well state regulation works but whether the anticompetitive scheme is the State’s own.” *Id.* at 635.
- It is necessary “to ensure the States accept political accountability for anticompetitive conduct they permit and control.” *N.C. Dental*, 135 S. Ct. at 1111. *See also Ticor*, 504 U.S. at 636.
- “The Court has identified only a few constant requirements of active supervision: The supervisor must review the substance of the anticompetitive decision, not merely the procedures followed to produce it; the supervisor must have the power to veto or modify particular decisions to ensure they accord with state policy; and the ‘mere potential for state supervision is not an adequate substitute for a decision by the State.’ Further, the state supervisor may not itself be an active market participant.” *N.C. Dental*, 135 S. Ct. at 1116–17 (citations omitted).

- The active supervision must precede implementation of the allegedly anticompetitive restraint.
- “[T]he inquiry regarding active supervision is flexible and context-dependent.” “[T]he adequacy of supervision . . . will depend on all the circumstances of a case.” *N.C. Dental*, 135 S. Ct. at 1116–17. Accordingly, FTC Staff will evaluate each case in light of its own facts, and will apply the applicable case law and the principles embodied in this guidance reasonably and flexibly.

3. What factors are relevant to determining whether the active supervision requirement has been satisfied?

FTC Staff will consider the presence or absence of the following factors in determining whether the active supervision prong of the state action defense is satisfied.

- The supervisor has obtained the information necessary for a proper evaluation of the action recommended by the regulatory board. As applicable, the supervisor has ascertained relevant facts, collected data, conducted public hearings, invited and received public comments, investigated market conditions, conducted studies, and reviewed documentary evidence.
 - ✓ The information-gathering obligations of the supervisor depend in part upon the scope of inquiry previously conducted by the regulatory board. For example, if the regulatory board has conducted a suitable public hearing and collected the relevant information and data, then it may be unnecessary for the supervisor to repeat these tasks. Instead, the supervisor may utilize the materials assembled by the regulatory board.
- The supervisor has evaluated the substantive merits of the recommended action and assessed whether the recommended action comports with the standards established by the state legislature.
- The supervisor has issued a written decision approving, modifying, or disapproving the recommended action, and explaining the reasons and rationale for such decision.
 - ✓ A written decision serves an evidentiary function, demonstrating that the supervisor has undertaken the required meaningful review of the merits of the state board’s action.
 - ✓ A written decision is also a means by which the State accepts political accountability for the restraint being authorized.

Scenario 1: Example of satisfactory active supervision of a state board regulation designating teeth whitening as a service that may be provided only by a licensed dentist, where state policy is to protect the health and welfare of citizens and to promote competition.

- The state legislature designated an executive agency to review regulations recommended by the state regulatory board. Recommended regulations become effective only following the approval of the agency.
- The agency provided notice of (i) the recommended regulation and (ii) an opportunity to be heard, to dentists, to non-dentist providers of teeth whitening, to the public (in a newspaper of general circulation in the affected areas), and to other interested and affected persons, including persons that have previously identified themselves to the agency as interested in, or affected by, dentist scope of practice issues.
- The agency took the steps necessary for a proper evaluation of the recommended regulation. The agency:
 - ✓ Obtained the recommendation of the state regulatory board and supporting materials, including the identity of any interested parties and the full evidentiary record compiled by the regulatory board.
 - ✓ Solicited and accepted written submissions from sources other than the regulatory board.
 - ✓ Obtained published studies addressing (i) the health and safety risks relating to teeth whitening and (ii) the training, skill, knowledge, and equipment reasonably required in order to safely and responsibly provide teeth whitening services (if not contained in submission from the regulatory board).
 - ✓ Obtained information concerning the historic and current cost, price, and availability of teeth whitening services from dentists and non-dentists (if not contained in submission from the regulatory board). Such information was verified (or audited) by the Agency as appropriate.
 - ✓ Held public hearing(s) that included testimony from interested persons (including dentists and non-dentists). The public hearing provided the agency with an opportunity (i) to hear from and to question providers, affected customers, and experts and (ii) to supplement the evidentiary record compiled by the state board. (As noted above, if the state regulatory board has previously conducted a suitable public hearing, then it may be unnecessary for the supervising agency to repeat this procedure.)
- The agency assessed all of the information to determine whether the recommended regulation comports with the State's goal to protect the health and

welfare of citizens and to promote competition.

- The agency issued a written decision accepting, rejecting, or modifying the scope of practice regulation recommended by the state regulatory board, and explaining the rationale for the agency's action.

Scenario 2: Example of satisfactory active supervision of a state regulatory board administering a disciplinary process.

A common function of state regulatory boards is to administer a disciplinary process for members of a regulated occupation. For example, the state regulatory board may adjudicate whether a licensee has violated standards of ethics, competency, conduct, or performance established by the state legislature.

Suppose that, acting in its adjudicatory capacity, a regulatory board controlled by active market participants determines that a licensee has violated a lawful and valid standard of ethics, competency, conduct, or performance, and for this reason, the regulatory board proposes that the licensee's license to practice in the state be revoked or suspended. In order to invoke the state action defense, the regulatory board would need to show both clear articulation and active supervision.

- In this context, active supervision may be provided by the administrator who oversees the regulatory board (*e.g.*, the secretary of health), the state attorney general, or another state official who is not an active market participant. The active supervision requirement of the state action defense will be satisfied if the supervisor: (i) reviews the evidentiary record created by the regulatory board; (ii) supplements this evidentiary record if and as appropriate; (iii) undertakes a *de novo* review of the substantive merits of the proposed disciplinary action, assessing whether the proposed disciplinary action comports with the policies and standards established by the state legislature; and (iv) issues a written decision that approves, modifies, or disapproves the disciplinary action proposed by the regulatory board.

Note that a disciplinary action taken by a regulatory board affecting a single licensee will typically have only a *de minimis* effect on competition. A pattern or program of disciplinary actions by a regulatory board affecting multiple licensees may have a substantial effect on competition.

The following do not constitute active supervision of a state regulatory board that is controlled by active market participants:

- The entity responsible for supervising the regulatory board is itself controlled by active market participants in the occupation that the board regulates. *See N.C. Dental*, 135 S. Ct. at 1113-14.
- A state official monitors the actions of the regulatory board and participates in deliberations, but lacks the authority to disapprove anticompetitive acts that fail to accord with state policy. *See Patrick v. Burget*, 486 U.S. 94, 101 (1988).
- A state official (*e.g.*, the secretary of health) serves *ex officio* as a member of the regulatory board with full voting rights. However, this state official is one of several members of the regulatory board and lacks the authority to disapprove anticompetitive acts that fail to accord with state policy.
- The state attorney general or another state official provides advice to the regulatory board on an ongoing basis.
- An independent state agency is staffed, funded, and empowered by law to evaluate, and then to veto or modify, particular recommendations of the regulatory board. However, in practice such recommendations are subject to only cursory review by the independent state agency. The independent state agency perfunctorily approves the recommendations of the regulatory board. *See Ticor*, 504 U.S. at 638.
- An independent state agency reviews the actions of the regulatory board and approves all actions that comply with the procedural requirements of the state administrative procedure act, without undertaking a substantive review of the actions of the regulatory board. *See Patrick*, 486 U.S. at 104-05.



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CBA Item II.A.
November 19, 2015

Recommendations For Appointment(s)/Reappointment(s) to the Enforcement Advisory Committee

Presented by: Katrina Salazar, CPA, Vice-President

Consumer Protection Objectives

The purpose of this agenda item is to recommend that Joseph Rosenbaum, CPA, (**Attachment 1**) be appointed as Chairperson of the California Board of Accountancy (CBA) Enforcement Advisory Committee (EAC). This agenda item ensures that the CBA continues its mission of consumer protection by appointing members that have the skills and knowledge to serve in a leadership capacity on the EAC.

Action(s) Needed

It is requested that the CBA adopt the recommendation.

Background

The EAC assists the CBA in an advisory capacity with enforcement activities. The committee reviews closed investigation files, offers technical guidance on open investigations, and participates in investigative hearings. The committee also considers, formulates and proposes policies and procedures related to the CBA's Enforcement Program, as directed by the CBA.

Comments

For all appointments to a committee, including recommendations for Chairperson, I ensure that the appointment will contribute to the committee's function and enable it to carry out its mandated activities. A matrix identifying the present members' areas of expertise is included as **Attachment 2**.

I also confer with the CBA Executive Officer to verify that the potential appointee has met the appropriate requirements for license renewal, including continuing education requirements and peer review (if subject). A check is also made to ensure there are no pending enforcement actions.

For current members who are being reappointed, I review prior attendance records, verify completion of mandatory trainings, and review the evaluations that may have been completed by the current Chairperson, Vice-Chairperson, CBA Liaisons, and the Enforcement Chief. The evaluation requests feedback in the areas of interpersonal

Recommendations For Appointment(s)/Reappointment(s) to the Enforcement Advisory Committee

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skills, communication, leadership, preparedness, and participation. Should a member have attendance or performance issues, they may be subject to review and removal from the committee, at any time, by action of the CBA.

Prior to making a decision to recommend Mr. Rosenbaum as Chairperson of the EAC, I performed all the steps previously mentioned. During Mr. Rosenbaum's term on the EAC he has exhibited a high level of professionalism during the performance of his duties and demonstrated that he has the skills and knowledge to serve in a leadership capacity, which will allow the EAC to continue to perform its mandated activities and assist the CBA with its Enforcement Program.

Fiscal/Economic Impact Considerations

There are no fiscal/economic impact considerations.

Recommendation

Based on the information above, and in consultation with Mr. De Lyser, Chairperson of the EAC, I recommend that Mr. Rosenbaum be appointed as Chairperson of the EAC, effective January 1, 2016 until December 31, 2016.

Attachments

1. Curriculum Vitae of Joseph R. Rosenbaum, CPA
2. Skill Matrix



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CBA Item II.A.
November 19, 2015

Recommendations For Appointment(s)/Reappointment(s) to the Enforcement Advisory Committee

Presented by: Katrina Salazar, CPA, Vice-President

Consumer Protection Objectives

The purpose of this agenda item is to recommend that Nancy Corrigan, CPA, (**Attachment 1**) be appointed as Vice-Chairperson of the California Board of Accountancy (CBA) Enforcement Advisory Committee (EAC). This agenda item ensures that the CBA continues its mission of consumer protection by appointing members that have the skills and knowledge to serve in a leadership capacity on the EAC.

Action(s) Needed

It is requested that the CBA adopt the recommendation.

Background

The EAC assists the CBA in an advisory capacity with enforcement activities. The committee reviews closed investigation files, offers technical guidance on open investigations, and participates in investigative hearings. The committee also considers, formulates and proposes policies and procedures related to the CBA's Enforcement Program, as directed by the CBA.

Comments

For all appointments to a committee, including recommendations for Vice-Chairperson, I ensure that the appointment will contribute to the committee's function and enable it to carry out its mandated activities. A matrix identifying the present members' areas of expertise is included as **Attachment 2**.

I also confer with the CBA Executive Officer to verify that the potential appointee has met the appropriate requirements for license renewal, including continuing education requirements and peer review (if subject). A check is also made to ensure there are no pending enforcement actions.

For current members who are being reappointed, I review prior attendance records, verify completion of mandatory trainings, and review the evaluations that may have been completed by the current Chairperson, Vice-Chairperson, CBA Liaisons, and the

Recommendations For Appointment(s)/Reappointment(s) to the Enforcement Advisory Committee

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Enforcement Chief. The evaluation requests feedback in the areas of interpersonal skills, communication, leadership, preparedness, and participation. Should a member have attendance or performance issues, they may be subject to review and removal from the committee, at any time, by action of the CBA.

Prior to making a decision to recommend Ms. Corrigan as Vice-Chairperson of the EAC, I performed all the steps previously mentioned. During Ms. Corrigan's term on the EAC she has exhibited a high level of professionalism during the performance of her duties and demonstrated that she has the skills and knowledge to serve in a leadership capacity, which will allow the EAC to continue to perform its mandated activities and assist the CBA with its Enforcement Program.

Fiscal/Economic Impact Considerations

There are no fiscal/economic impact considerations.

Recommendation

Based on the information above, and in consultation with Mr. De Lyser, Chairperson of the EAC, I recommend that Ms. Corrigan be appointed as Vice-Chairperson of the EAC, effective January 1, 2016 until December 31, 2016.

Attachments

1. Curriculum Vitae of Nancy J. Corrigan, CPA
2. Skill Matrix



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CBA Item II.B.
November 19, 2015

Recommendations For Appointment(s)/Reappointment(s) to the Qualifications Committee

Presented by: Katrina Salazar, CPA, Vice-President

Consumer Protection Objectives

The purpose of this agenda item is to recommend that Thomas Sauer, CPA, (**Attachment 1**) be appointed as a member to the California Board of Accountancy (CBA) Qualifications Committee (QC). This agenda item ensures that the CBA continues its mission of consumer protection by appointing members that have the skills and knowledge to serve on the QC.

Action(s) Needed

It is requested that the CBA adopt the recommendation.

Background

The QC assists the CBA in its licensure activities by reviewing the experience of applicants for licensure and making recommendations to the CBA. This responsibility includes conducting work paper reviews, with the applicant or the employer present, to verify that the responses provided are reflective of the requisite experience for licensure.

Comments

For all appointments to a committee, I work with the current chair to discuss knowledge and skills to ensure that the appointment will contribute to the committee's function and enable it to carry out its mandated activities. A matrix identifying the present members' areas of expertise is included as **Attachment 2**.

I also confer with the CBA Executive Officer to verify that the potential appointee has met the appropriate requirements for license renewal, including continuing education requirements and peer review (if subject). A check is also made to ensure there are no pending enforcement actions.

Prior to making a decision to recommend Mr. Sauer for appointment to the QC, I performed all the steps previously mentioned. I believe Mr. Sauer has demonstrated the skills and knowledge to serve on the QC, which will allow the QC to assist the CBA with its Licensure Program.

Recommendations For Appointment(s)/Reappointment(s) to the Qualifications Committee

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Fiscal/Economic Impact Considerations

There are no fiscal/economic impact considerations.

Recommendation

Based on the information above, and in consultation with Robert Ruehl, Chairperson of the QC, I recommend that Thomas Sauer be appointed for two years to the QC, effective November 19, 2015 until November 30, 2017.

Attachments

1. Curriculum Vitae Thomas R. Sauer, CPA
2. Skill Matrix



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CBA Item II.B.
November 19, 2015

Recommendations For Appointment(s)/Reappointment(s) to the Qualifications Committee

Presented by: Katrina Salazar, CPA, Vice-President

Consumer Protection Objectives

The purpose of this agenda item is to recommend that Virginia Smith, CPA, (**Attachment 1**) be appointed as a member to the California Board of Accountancy (CBA) Qualifications Committee (QC). This agenda item ensures that the CBA continues its mission of consumer protection by appointing members that have the skills and knowledge to serve on the QC.

Action(s) Needed

It is requested that the CBA adopt the recommendation.

Background

The QC assists the CBA in its licensure activities by reviewing the experience of applicants for licensure and making recommendations to the CBA. This responsibility includes conducting work paper reviews, with the applicant or the employer present, to verify that the responses provided are reflective of the requisite experience for licensure.

Comments

For all appointments to a committee, I work with the current chair to discuss knowledge and skills to ensure that the appointment will contribute to the committee's function and enable it to carry out its mandated activities. A matrix identifying the present members' areas of expertise is included as **Attachment 2**.

I also confer with the CBA Executive Officer to verify that the potential appointee has met the appropriate requirements for license renewal, including continuing education requirements and peer review (if subject). A check is also made to ensure there are no pending enforcement actions.

Prior to making a decision to recommend Ms. Smith for appointment to the QC, I performed all the steps previously mentioned. I believe Ms. Smith has demonstrated the skills and knowledge to serve on the QC, which will allow the QC to assist the CBA with its Licensure Program.

Recommendations For Appointment(s)/Reappointment(s) to the Qualifications Committee

Page 2 of 2

Fiscal/Economic Impact Considerations

There are no fiscal/economic impact considerations.

Recommendation

Based on the information above, and in consultation with Robert Ruehl, Chairperson of the QC, I recommend that Virginia Smith be appointed for two years to the QC, effective November 19, 2015 until November 30, 2017.

Attachments

1. Curriculum Vitae of Virginia Smith, CPA
2. Skill Matrix



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CBA Item II.B.
November 19, 2015

Recommendations For Appointment(s)/Reappointment(s) to the Qualifications Committee

Presented by: Katrina Salazar, CPA, Vice-President

Consumer Protection Objectives

The purpose of this agenda item is to recommend that Joanna Bolsky, CPA, (**Attachment 1**) be reappointed as a member to the California Board of Accountancy (CBA) Qualifications Committee (QC). This agenda item ensures that the CBA continues its mission of consumer protection by reappointing members that have the skills and knowledge to serve on the QC.

Action(s) Needed

It is requested that the CBA adopt the recommendation.

Background

The QC assists the CBA in its licensure activities by reviewing the experience of applicants for licensure and making recommendations to the CBA. This responsibility includes conducting work paper reviews, with the applicant or the employer present, to verify that the responses provided are reflective of the requisite experience for licensure.

Comments

For all appointments to a committee, I work with the current chair to discuss knowledge and skills to ensure that the appointment will contribute to the committee's function and enable it to carry out its mandated activities. A matrix identifying the present members' areas of expertise is included as **Attachment 2**.

I also confer with the CBA Executive Officer to verify that the potential appointee has met the appropriate requirements for license renewal, including continuing education requirements and peer review (if subject). A check is also made to ensure there are no pending enforcement actions.

For current members who are being reappointed, I review prior attendance records, verify completion of mandatory trainings, and review the evaluations that may have been completed by the current Chairperson, CBA Liaisons, and the Licensing Chief. The evaluation requests feedback in the areas of interpersonal skills, communication,

Recommendations For Appointment(s)/Reappointment(s) to the Qualifications Committee

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leadership, preparedness, and participation. Should a member have attendance or performance issues, they may be subject to review and removal from the committee, at any time, by action of the CBA.

Prior to making a decision to recommend Ms. Bolsky for reappointment to the QC, I performed all the steps previously mentioned. I believe Ms. Bolsky has exhibited a high level of professionalism during the performance of her term as a member and as Vice-Chair of the QC. Additionally, Ms. Bolsky has demonstrated the skills and knowledge to serve on the QC, which will allow the QC to assist the CBA with its Licensure Program.

Fiscal/Economic Impact Considerations

There are no fiscal/economic impact considerations.

Recommendation

Based on the information above, and in consultation with Robert Ruehl, Chairperson of the QC, I recommend that Joanna Bolsky be reappointed for two years to the QC, effective December 1, 2015.

Attachments

1. Curriculum Vitae of Joanna Bolsky, CPA
2. Skill Matrix



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CBA Item II.B.
November 19, 2015

Recommendations For Appointment(s)/Reappointment(s) to the Qualifications Committee

Presented by: Katrina Salazar, CPA, Vice-President

Consumer Protection Objectives

The purpose of this agenda item is to recommend that Joanna Bolsky, CPA, (**Attachment 1**) be appointed as Chairperson of the California Board of Accountancy (CBA) Qualifications Committee (QC). This agenda item ensures that the CBA continues its mission of consumer protection by appointing members that have the skills and knowledge to serve in a leadership capacity on the QC.

Action(s) Needed

It is requested that the CBA adopt the recommendation.

Background

The QC assists the CBA in its licensure activities by reviewing the experience of applicants for licensure and making recommendations to the CBA. This responsibility includes conducting work paper reviews, with the applicant or the employer present, to verify that the responses provided are reflective of the requisite experience for licensure.

Comments

For all appointments to a committee, including recommendations for Chairperson, I ensure that the appointment will contribute to the committee's function and enable it to carry out its mandated activities. A matrix identifying the present members' areas of expertise is included as **Attachment 2**.

I also confer with the CBA Executive Officer to verify that the potential appointee has met the appropriate requirements for license renewal, including continuing education requirements and peer review (if subject). A check is also made to ensure there are no pending enforcement actions.

For current members who are being reappointed, I review prior attendance records, verify completion of mandatory trainings, and review the evaluations that may have been completed by the current Chairperson, Vice-Chairperson, CBA Liaisons, and the Licensing Chief. The evaluation requests feedback in the areas of interpersonal skills,

Recommendations For Appointment(s)/Reappointment(s) to the Qualifications Committee

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communication, leadership, preparedness, and participation. Should a member have attendance or performance issues, they may be subject to review and removal from the committee, at any time, by action of the CBA.

Prior to making a decision to recommend Ms. Bolsky as Chairperson of the QC, I performed all the steps previously mentioned. During Ms. Bolsky's term on the QC she has exhibited a high level of professionalism during the performance of her duties and demonstrated that she has the skills and knowledge to serve in a leadership capacity, which will allow the QC to continue to perform its mandated activities and assist the CBA with its Licensure Program.

Fiscal/Economic Impact Considerations

There are no fiscal/economic impact considerations.

Recommendation

Based on the information above, and in consultation with Robert Ruehl, Chairperson of the QC, I recommend that Ms. Bolsky be appointed as Chairperson of the QC, effective January 1, 2016 until December 31, 2016.

Attachments

1. Curriculum Vitae of Joanna Bolsky, CPA
2. Skill Matrix



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CBA Item II.B.
November 19, 2015

Recommendations For Appointment(s)/Reappointment(s) to the Qualifications Committee

Presented by: Katrina Salazar, CPA, Vice-President

Consumer Protection Objectives

The purpose of this agenda item is to recommend that David Evans, CPA, (**Attachment 1**) be appointed as Vice-Chairperson of the California Board of Accountancy (CBA) Qualifications Committee (QC). This agenda item ensures that the CBA continues its mission of consumer protection by appointing members that have the skills and knowledge to serve in a leadership capacity on the QC.

Action(s) Needed

It is requested that the CBA adopt the recommendation.

Background

The QC assists the CBA in its licensure activities by reviewing the experience of applicants for licensure and making recommendations to the CBA. This responsibility includes conducting work paper reviews, with the applicant or the employer present, to verify that the responses provided are reflective of the requisite experience for licensure.

Comments

For all appointments to a committee, including recommendations for Vice-Chairperson, I ensure that the appointment will contribute to the committee's function and enable it to carry out its mandated activities. A matrix identifying the present members' areas of expertise is included as **Attachment 2**.

I also confer with the CBA Executive Officer to verify that the potential appointee has met the appropriate requirements for license renewal, including continuing education requirements and peer review (if subject). A check is also made to ensure there are no pending enforcement actions.

For current members who are being reappointed, I review prior attendance records, verify completion of mandatory trainings, and review the evaluations that may have been completed by the current Chairperson, Vice-Chairperson, CBA Liaisons, and the Licensing Chief. The evaluation requests feedback in the areas of interpersonal skills,

Recommendations For Appointment(s)/Reappointment(s) to the Qualifications Committee

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communication, leadership, preparedness, and participation. Should a member have attendance or performance issues, they may be subject to review and removal from the committee, at any time, by action of the CBA.

Prior to making a decision to recommend Mr. Evans as Vice-Chairperson of the QC, I performed all the steps previously mentioned. During Mr. Evans term on the QC he has exhibited a high level of professionalism during the performance of his duties and demonstrated that he has the skills and knowledge to serve in a leadership capacity, which will allow the QC to continue to perform its mandated activities and assist the CBA with its Licensure Program.

Fiscal/Economic Impact Considerations

There are no fiscal/economic impact considerations.

Recommendation

Based on the information above, and in consultation with Robert Ruehl, Chairperson of the QC, I recommend that Mr. Evans be appointed as Vice-Chairperson of the QC, effective January 1, 2016 until December 31, 2016.

Attachments

1. Curriculum Vitae of David Evans, CPA
2. Skill Matrix



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CBA Item II.C.
November 19, 2015

Recommendations For Appointment(s)/Reappointment(s) to the Peer Review Oversight Committee

Presented by: Katrina Salazar, CPA, Vice-President

Consumer Protection Objectives

The purpose of this agenda item is to recommend that Renee Graves, CPA, (**Attachment**) be appointed as a member to the California Board of Accountancy (CBA) Peer Review Oversight Committee (PROC). This agenda item ensures that the CBA continues its mission of consumer protection by appointing members that have the skills and knowledge to serve on the PROC.

Action(s) Needed

It is requested that the CBA adopt the recommendation.

Background

The PROC assists the CBA in an advisory capacity in its oversight of the Peer Review Program. The committee ensures that Board-recognized peer review program providers administer peer reviews in accordance with standards, evaluates applications to become a Board-Recognized Peer Review Program Provider, collects and analyzes statistical monitoring and reporting data from each Peer Review Provider on an annual basis, and prepares an Annual Report to the CBA regarding the results of its oversight.

Comments

For all appointments to a committee, I work with the current chair to discuss knowledge and skills to ensure that the appointment will contribute to the committee's function and enable it to carry out its mandated activities.

I also confer with the CBA Executive Officer to verify that the potential appointee has met the appropriate requirements for license renewal, including continuing education requirements and peer review (if subject). A check is also made to ensure there are no pending enforcement actions.

Prior to making a decision to recommend Ms. Graves for appointment to the PROC, I performed all the steps previously mentioned. I believe Ms. Graves has demonstrated the skills and knowledge to serve on the PROC, which will allow the PROC to assist the CBA with its Peer Review Program.

Recommendations For Appointment(s)/Reappointment(s) to the Peer Review Oversight Committee

Page 2 of 2

Fiscal/Economic Impact Considerations

There are no fiscal/economic impact considerations.

Recommendation

Based on the information above, and in consultation with Robert Lee, Chairperson of the PROC, I recommend that Ms. Graves be appointed for two years to the PROC, effective November 19, 2015 until November 30, 2017.

Attachments

Curriculum Vitae Renee S. Graves, CPA



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CBA Item II.C.
November 19, 2015

Recommendations For Appointment(s)/Reappointment(s) to the Peer Review Oversight Committee

Presented by: Katrina Salazar, CPA, Vice-President

Consumer Protection Objectives

The purpose of this agenda item is to recommend that Robert Lee, CPA, (**Attachment**) be reappointed as Chairperson of the California Board of Accountancy (CBA) Peer Review Oversight Committee (PROC). This agenda item ensures that the CBA continues its mission of consumer protection by appointing members that have the skills and knowledge to serve in a leadership capacity on the PROC.

Action(s) Needed

It is requested that the CBA adopt the recommendation.

Background

The PROC assists the CBA in an advisory capacity in its oversight of the Peer Review Program. The committee ensures that Board-recognized peer review program providers administer peer reviews in accordance with standards, evaluates applications to become a Board-Recognized Peer Review Program Provider, collects and analyzes statistical monitoring and reporting data from each Peer Review Provider on an annual basis, and prepares an Annual Report to the CBA regarding the results of its oversight.

Comments

For all appointments to a committee, including recommendations for Chairperson, I ensure that the appointment will contribute to the committee's function and enable it to carry out its mandated activities.

I also confer with the CBA Executive Officer to verify that the potential appointee has met the appropriate requirements for license renewal, including continuing education requirements and peer review (if subject). A check is also made to ensure there are no pending enforcement actions.

For current members who are being reappointed, I review prior attendance records, verify completion of mandatory trainings, and review the evaluations that may have been completed by the Chairperson, Vice-Chairperson, and the Enforcement Chief. The evaluation requests feedback in the areas of interpersonal skills, communication,

Recommendations For Appointment(s)/Reappointment(s) to the Peer Review Oversight Committee

Page 2 of 2

leadership, preparedness, and participation. Should a member have attendance or performance issues, they may be subject to review and removal from the committee, at any time, by action of the CBA.

Prior to making a decision to recommend Mr. Lee be reappointed as Chairperson of the EAC, I performed all the steps previously mentioned. During Mr. Lee's term as Chairperson of the PROC, he has exhibited a high level of professionalism during the performance of his duties and demonstrated that he has the skills and knowledge to serve in a leadership capacity, which will allow the PROC to continue to perform its mandated activities and assist the CBA with its Peer Review Program.

Fiscal/Economic Impact Considerations

There are no fiscal/economic impact considerations.

Recommendation

Based on the information above, I recommend that Mr. Lee be reappointed as Chairperson of the PROC, effective January 1, 2016 until December 31, 2016.

Attachment

Curriculum Vitae of Robert A. Lee, CPA



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CBA Item II.C.
November 19, 2015

Recommendations For Appointment(s)/Reappointment(s) to the Peer Review Oversight Committee

Presented by: Katrina Salazar, CPA, Vice-President

Consumer Protection Objectives

The purpose of this agenda item is to recommend that Jeffrey De Lyser, CPA, (**Attachment**) be appointed as Vice-Chairperson of the California Board of Accountancy (CBA) Peer Review Oversight Committee (PROC). This agenda item ensures that the CBA continues its mission of consumer protection by appointing members that have the skills and knowledge to serve in a leadership capacity on the PROC.

Action(s) Needed

It is requested that the CBA adopt the recommendation.

Background

The PROC assists the CBA in an advisory capacity in its oversight of the Peer Review Program. The committee ensures that Board-recognized peer review program providers administer peer reviews in accordance with standards, evaluates applications to become a Board-Recognized Peer Review Program Provider, collects and analyzes statistical monitoring and reporting data from each Peer Review Provider on an annual basis, and prepares an Annual Report to the CBA regarding the results of its oversight.

Comments

For all appointments to a committee, including recommendations for Vice-Chairperson, I ensure that the appointment will contribute to the committee's function and enable it to carry out its mandated activities.

I also confer with the CBA Executive Officer to verify that the potential appointee has met the appropriate requirements for license renewal, including continuing education requirements and peer review (if subject). A check is also made to ensure there are no pending enforcement actions.

For current members who are being reappointed, I review prior attendance records, verify completion of mandatory trainings, and review the evaluations that may have been completed by the current Chairperson, Vice-Chairperson, and the Enforcement Chief. The evaluation requests feedback in the areas of interpersonal skills,

Recommendations For Appointment(s)/Reappointment(s) to the Peer Review Oversight Committee

Page 2 of 2

communication, leadership, preparedness, and participation. Should a member have attendance or performance issues, they may be subject to review and removal from the committee, at any time, by action of the CBA.

Prior to making a decision to recommend Mr. De Lyser as Vice-Chairperson of the PROC, I performed all the steps previously mentioned. During Mr. De Lyser's term on the PROC he has exhibited a high level of professionalism during the performance of his duties and demonstrated that he has the skills and knowledge to serve in a leadership capacity, which will allow the PROC to continue to perform its mandated activities and assist the CBA with its Peer Review Program.

Fiscal/Economic Impact Considerations

There are no fiscal/economic impact considerations.

Recommendation

Based on the information above, and in consultation with Mr. Lee, Chairperson of the PROC, I recommend that Mr. De Lyser be appointed as Vice-Chairperson of the PROC, effective January 1, 2016 until December 31, 2016.

Attachment

Curriculum Vitae of K. Jeffrey De Lyser, CPA



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CBA Item III.A.
November 19, 2015

Fiscal Year 2015-16 First Quarter Financial Statement and Update on Repayment of Loans to the California Board of Accountancy from the General Fund

Presented by: Alicia Berhow, Secretary/Treasurer

Consumer Protection Objectives

The purpose of this agenda item is to provide the California Board of Accountancy (CBA) with the 2015-16 Fiscal Year (FY) first quarter financial statement and update on General Fund Loan Repayments. This agenda item is a necessary part of the CBA's normal course of business, and as such, it will assist the CBA in continuing its mission of consumer protection as mandated by statute in Business and Professions Code section 5000.1.

Action(s) Needed

No specific action is required on this agenda item.

Background

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

Comments

None.

Fiscal/Economic Impact Considerations

There are no fiscal/economic impact considerations.

Recommendation

Staff does not have a recommendation on this agenda item.

Attachments

1. First Quarter Financial Statement – Narrative
2. First Quarter Financial Statement – Statistics
3. CBA Budget Allocation History
4. CBA Total Revenue and Expenditures



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CALIFORNIA BOARD OF ACCOUNTANCY
FISCAL YEAR 2015-16
FIRST QUARTER FINANCIAL STATEMENT - NARRATIVE
(For period of 7-01-15 through 09-30-15)

Attachment 1

BUDGET

There have been no fiscal year (FY) 2015-16 budget changes since the FY 2014-15 Year-End Financial Statement was presented at the September 2015 meeting. The FY 2015-16 budget is currently set at \$14,153,000, an approximate increase of three percent from last FY. The increase to the budget can be attributed to higher Personal Services costs as a result of a two and a half percent salary increase for most State of California employees, including all CBA staff, and benefit/retirement rate increases that went into effect on July 1, 2015.

The FY 2016-17 budget will be available on January 10, 2016 and highlights of any changes will be reported in March 2016.

REVENUES/TOTAL RECEIPTS

The CBA collected approximately \$1.3 million in total receipts in the first quarter of FY 2015-16. Total revenues decreased by approximately 18 percent from the same period last year. Certified Public Accountant License Renewal for the first quarter of FY 2015-16 was lower compared to the first quarter of FY 2014-15 reflecting a reduction in renewals revenue. It is projected that the CBA will bring in approximately \$5.3M in receipts over the entire FY 2015-16. Expected revenues remain low as a result of the CBA entering the second year of a two-year reduction in the license renewal and initial permit, examination, and license application/registration fees.

The penalties and fines line item reflects a significant increase, from the same period last year, as a result of two disciplinary matters that were ongoing and settled early this FY, with each being assessed an administrative penalty.

EXPENDITURES

Total expenditures through the first quarter reflect an approximate 20 percent increase over the same period last fiscal year. Much of this increase can be attributed to higher Personal Services costs.

Most of the operating expense line items (general expense office supplies, facilities costs, etc.) have increased due to the additional equipment and resources provided to new staff. This increase is also as a result of costs associated with the move to the new building.

CALIFORNIA BOARD OF ACCOUNTANCY
FISCAL YEAR 2015-16
FIRST QUARTER FINANCIAL STATEMENT – NARRATIVE
(For period of 7-01-15 through 09-30-15)
Page 2 of 3

The Communications line item (cell phones, central communication, fax, telephone exchange, delivery services, and maintenance) has increased significantly compared to last year as a result of all the Investigative Certified Public Accountant (ICPAs) positions being filled in FY 2014-15. All remote ICPAs use their CBA issued cell phone to connect to the internet and access the CBA server and related files.

Costs in the training expense category have increased significantly as the ICPAs complete continuing education in order to renew their CPA licenses. With the increased number of ICPAs, the costs for training have similarly increased.

The Consultant and Professional Services line item reflects the CBA's use of additional subject matter expert consultants working with the Enforcement Division to investigate cases. In FY 2015-16, the CBA is utilizing three consultants to assist the Enforcement Division.

Equipment costs have increased significantly this first quarter as a result of Information Technology (IT) purchases, including a phone system and new network infrastructure for the new building.

Postage line item reflects a significant increase compared to last year. Factors impacting this increase include Board and Committee mail outs and the renewing of Post Office Boxes for remote ICPAs.

Data processing costs have increased significantly this FY compared to the same period last year as a result of internet security and webcasting software and hardware purchases made by the IT division. The IT division also disposed of computer systems and electronic items significantly increasing electronic waste costs.

The exams line item includes the contract the CBA has with the National Association of State Boards of Accountancy (NASBA). The Exam line item appears to be inflated, however, year-to-date expenses for FY 2015-16 already include full annual costs. Full annual amounts in this category for FY 2015-16 are approximately \$169,200. The FY 2015-16 amount is higher than FY 2014-15 because the NASBA contract for examinations is written based on two calendar years to accommodate NASBA's accounting system. Exam costs for FY 2015-16 will be double exam costs for FY 2014-15 as a result of this bridge between calendar year and fiscal year.

CALIFORNIA BOARD OF ACCOUNTANCY
FISCAL YEAR 2015-16
FIRST QUARTER FINANCIAL STATEMENT – NARRATIVE
(For period of 7-01-15 through 09-30-15)
Page 3 of 3

RESERVES

The CBA ended the first quarter of FY 2015-16 with 3.5 months in reserve (MIR). First-quarter expenditures have already exceeded total revenues by approximately \$2.9M and staff project that over the course of the entire FY 2015-16, expenditures will exceed total revenues by more than \$9M. The CBA is scheduled to receive two General Fund loan repayments towards the end of FY 2015-16, as a result the CBA is expected to end the 2015-16 FY with approximately 3.5 MIR.

GENERAL FUND LOAN REPAYMENTS

On September 29, 2015, The Department of Finance (DOF) released its updated Loan Obligation Report, which identifies target dates for the repayment of the CBA loans made to the General Fund. Presently, the CBA has approximately \$31 million in loans outstanding. The Loan Obligation Report reflects the following repayment schedule:

Fiscal Year 2015/16	\$6,000,000
Fiscal Year 2015/16	\$270,000
Fiscal Year 2016/17	\$10,000,000
Fiscal Year 2016/17	\$1,000,000
Multiple Fiscal Years	\$14,000,000

CALIFORNIA BOARD OF ACCOUNTANCY
FISCAL YEAR 2015-16
First Quarter Financial Statement
(for period of 07/1/15 through 09/30/15)

Attachment 2

	FY 2015-16 Received/Expended 07/01/15 - 09/30/15 (3 months) [7]	FY 2014-15 Received/Expended 07/01/14 -09/30/14 (3 months) [7]	% Change FY 2015-16 to FY 2014-15 to (A:B)	FY 2015-16 Annual Governor's Budget 7/01/15 - 6/30/16 (12 months) [8]	FY 2015-16 Receipts/Expenditures Over/Under Budget (D:A)	FY 2015-16 Annual Projections (12 months) [9]
RECEIPTS						
Revenues:						
Renewals [1]	665,717	989,021	-32.7%	2,729,962	-75.6%	2,542,702
Examination Fees	531,139	532,554	-0.3%	2,150,635	-75.3%	1,759,056
Licensing Fees	45,170	27,220	65.9%	204,090	-77.9%	276,360
Miscellaneous [2]	10,477	15,172	-30.9%	42,971	-75.6%	62,219
Penalties and Fines	36,003	13,225	172.2%	187,850	-80.8%	322,452
Total Revenues	1,288,506	1,577,192	-18.3%	5,315,508	-75.8%	4,962,789
Interest	0	0	NA	0	NA	0
TOTAL NET RECEIPTS	1,288,506	1,577,192	-18.3%	5,315,508	-75.8%	4,962,789
EXPENDITURES:						
Personal Services:						
Salaries & Wages	1,352,188	1,153,034	17.3%	5,587,513	-75.8%	5,605,479
Temporary Help	87,077	89,226	-2.4%	200,000	-56.5%	658,121
Total Salaries & Temp. Help	1,439,265	1,242,260	15.9%	5,787,513	-132.3%	6,263,600
Benefits						
Health Insurance	242,480	200,155	21.1%	1,058,763	-77.1%	1,015,703
Other Insurance and Miscellaneous	24,515	23,336	5.1%	114,644	-78.6%	102,689
State Retirement	344,400	267,707	28.6%	1,325,344	-74.0%	1,442,626
Social Security	84,502	70,394	20.0%	404,190	-79.1%	353,963
Total Benefits [3]	695,897	561,592	23.9%	2,902,941	-308.8%	2,914,980
Total Personal Services:	2,135,162	1,803,852	18.4%	8,690,454	-75.4%	9,178,580
Operating Expenses:						
Fingerprints	11,564	11,887	-2.7%	122,954	-90.6%	46,256
General Expense	84,206	60,449	39.3%	252,068	-66.6%	305,586
Printing	63,091	52,865	19.3%	95,608	-34.0%	252,013
Communications	14,898	7,224	106.2%	59,614	-75.0%	37,977
Postage	59,184	42,878	38.0%	141,872	-58.3%	355,104
Travel	26,576	24,435	8.8%	135,886	-80.4%	159,456
Training	39,036	18,637	109.5%	28,012	39.4%	94,939
Facilities Operations	688,182	750,212	-8.3%	692,818	-0.7%	670,736
Consultant & Professional Services	57,994	34,672	67.3%	242,076	-76.0%	89,992
Departmental Services	445,005	340,616	30.6%	1,781,516	-75.0%	1,781,516
Consolidated Data Center	14,942	19,974	-25.2%	40,770	-63.4%	92,741
Data Processing	85,788	5,580	1437.4%	50,103	71.2%	50,103
Central Administrative Services	141,744	123,850	14.4%	567,398	-75.0%	567,398
Exams	165,200	68,800	140.1%	0	NA	228,682
Enforcement	133,403	133,451	0.0%	1,463,551	-90.9%	803,256 [10]
Equipment	22,176	2,910	662.1%	84,300	-73.7%	133,056
Total Operating Expenses:	2,052,989	1,698,440	20.9%	5,758,546	-64.3%	5,668,811
TOTAL EXPENDITURES	4,188,151	3,502,292	19.6%	14,449,000	-71.0%	14,847,391
Less Scheduled Reimbursements	15,944	11,299	41.1%	296,000	-94.6%	222,724
TOTAL NET EXPENDITURES	4,172,207	3,490,993	19.5%	14,153,000	-70.5%	14,624,667
RECEIPTS IN EXCESS OF EXPENSES	-2,883,701	-1,913,801		-8,837,492		-9,661,878
PLUS COST RECOVERY	165,566	28,685		0		1,312,181
BEGINNING RESERVES JULY 1 [4]	6,817,000	14,186,000		6,817,000		6,817,000
Total Resources	4,098,865	12,300,884		-2,020,492		-1,532,697
PROJECTED ENDING RESERVES [11]	4,098,865	12,300,884	-66.7%	-2,020,492		-1,532,697
GENERAL FUND LOAN 2002 [5]	(6,000,000)	(6,000,000)				
GENERAL FUND LOAN 2003 [5]	(270,000)	(270,000)				
GENERAL FUND LOAN 2008 [5]	(14,000,000)	(14,000,000)				
GENERAL FUND LOAN 2010 [5]	(10,000,000)	(10,000,000)				
GENERAL FUND LOAN 2011 [5]	(1,000,000)	(1,000,000)				
MONTHS IN RESERVE (MIR) [6]	3.5	10.4		-1.7		-1.4

CALIFORNIA BOARD OF ACCOUNTANCY
FISCAL YEAR 2015-16
First Quarter Financial Statement
(for period of 07/1/15 through 09/30/15)

Footnotes:

- [1] Includes biennial renewals, delinquent and prior year renewals, and initial licenses.
- [2] Includes miscellaneous services to the public, dishonored check fees, certification fees, duplicate licenses, name changes, over/short fees, suspended revenue, prior year adjustments, and unclaimed checks.
- [3] The following line items are part of the total benefits figure:
Health Insurance - health, dental, vision.
Other insurance and Miscellaneous - worker's compensation, unemployment insurance, transit discount.
- [4] FY 2014-15 and 2015-16 beginning reserve amount was taken from Analysis of Fund Condition statement, prepared by the Department of Consumer Affairs (DCA) Budget Office.
- [5] Funds borrowed per California Government Code Section 16320, which indicates that the Budget Act is the authority for these loans. The "terms and conditions" of the loans, per the Budget Act are: "The transfer made by this item is a loan to the General Fund. This loan shall be repaid with interest calculated at the rate earned by the Pooled Money Investment Account at the time of the transfer." (Estimated at .389% for 2011, .515% for 2010, 2.78% for 2008, 1.64% for 2003 loan, and 2.523% for 2002). "It is the intent of the Legislature that repayment be made so as to ensure that the programs supported by this fund are not adversely affected by the loan through a reduction in service or an increase in fees." Outstanding General Fund loans total \$31,270,000.
- [6] Calculation: Net projected expenditure authority for FY 2015-16 (\$14,153,000 divided by twelve months equals monthly expenditure authority (\$1,179,417). Total ending reserves divided by monthly authority equals "Months in Reserve" (MIR).
- [7] Received/Expended amounts through September 30, 2015 for FY 2015-16 and September 30, 2014 for FY 2014-15 include encumbrances, and are from DCA Budget Reports.
- [8] Figures reflect projected revenues from FY 2015-16 Workload and Revenue Statistics, expenditures are provided by the Department of Consumer Affairs Budget Office.
- [9] This column reflects CBA's annual revenue and expenditure projections for Fiscal Year 2015-16 based on three months of actual data.
- [10] Annual expenditures projected for the Enforcement line item are based only on what the CBA has spent to date. No other factors are used in determining this projection. This estimate is not indicative of the number or type of enforcement cases the CBA anticipates being involved in or is currently investigating.
- [11] The scheduled loan repayments of \$6 million and \$270 thousand at the end of FY 2015-16 will increase the MIR and ending reserve balance too approximately 3.5 MIR.

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

CBA Budget Allocation History

First Quarter FY 2015-16	Total Budget Act	Practice Privilege	Exam	Initial Licensing	Licensing Administration	RCC	Enforcement	Administration	Executive	Board
\$ Budgeted	\$14,153,000	137,344	914,787	1,281,485	689,659	1,326,245	6,977,815	2,178,916	571,290	75,459
\$ Spent	\$4,172,207	55,200	402,934	429,146	180,133	400,033	1,751,472	677,378	200,734	75,181
Authorized Positions^{1,2}	93.9	1.0	6.0	12.0	5.0	11.0	38.5	16.4	4.0	0.0

¹ Five limited-term positions will expire June 30, 2016 and six limited-term positions will expire June 30, 2017 for the Enforcement Unit.

² Internal positions were redirected between the Initial Licensing and Licensing Administration Unit and also between the Enforcement and Executive Unit.

FY 2014-15	Total Budget Act	Practice Privilege	Exam	Initial Licensing	Licensing Administration	RCC	Enforcement	Administration	Executive	Board
\$ Budgeted	\$13,696,062	106,844	875,018	1,407,264	479,493	1,234,494	6,865,778	2,206,522	445,190	75,459
\$ Spent	\$13,118,315	130,062	862,989	1,314,742	593,728	1,521,636	5,745,218	2,200,346	605,215	144,376
Authorized Positions¹	93.9	1.0	6.0	13.0	4.0	11.0	39.5	16.4	3.0	0.0

¹ 17 Enforcement positions and one Initial Licensing position were added as a result of 3 successful FY 2014-15 BCPs. 11 of the 17 Enforcement positions are limited term.

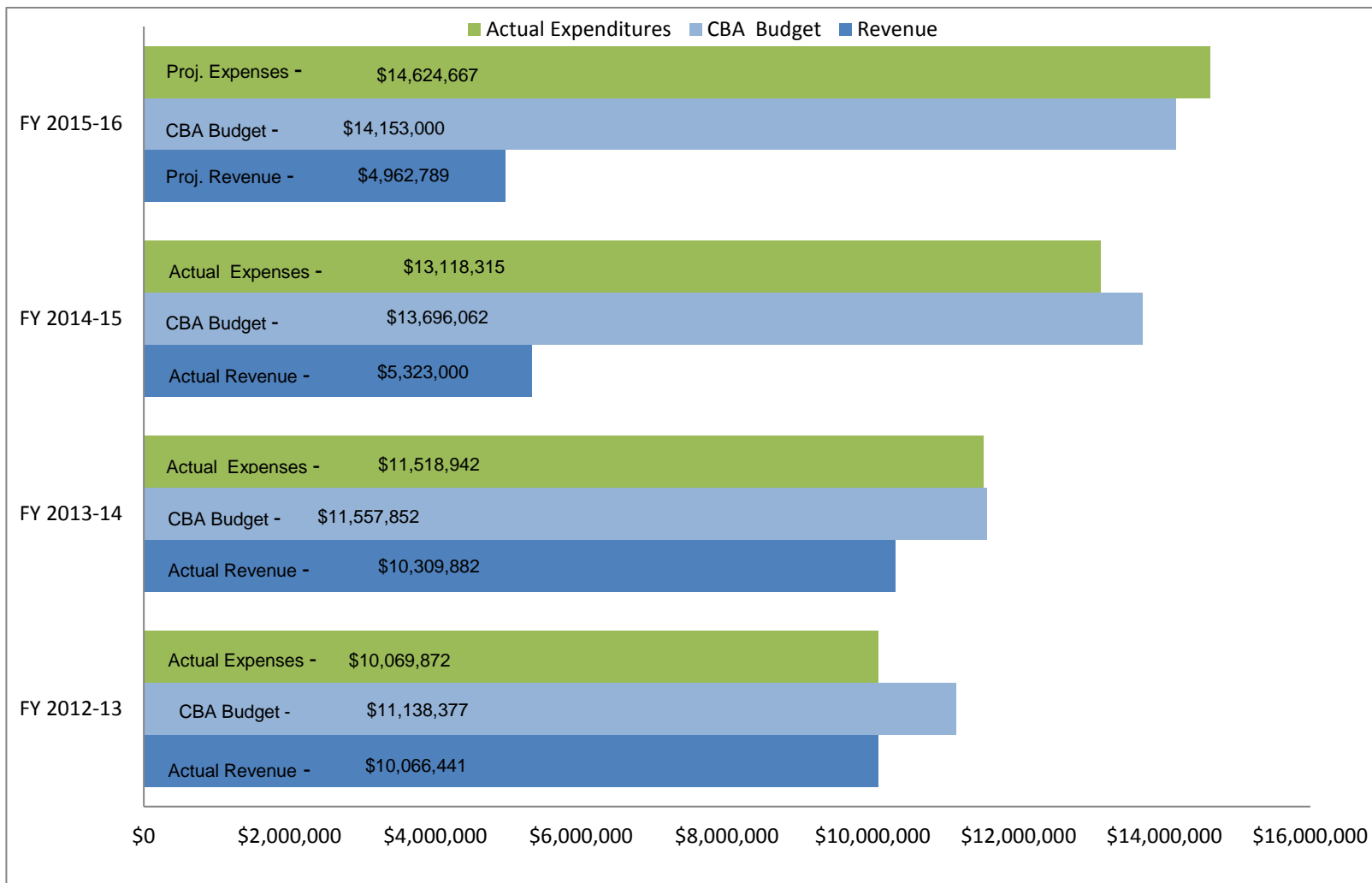
FY 2013-14	Total Budget Act	Practice Privilege	Exam	Initial Licensing	Licensing Administration	RCC	Enforcement	Administration	Executive	Board
\$ Budgeted	\$11,557,852	127,993	860,445	1,332,593	533,006	1,550,464	4,580,456	2,056,711	437,199	78,985
\$ Spent	\$11,518,942	69,862	886,921	1,266,414	582,303	1,592,579	3,956,921	2,218,063	834,781	111,098
Authorized Positions¹	75.9	1.0	6.0	11.0	4.0	11.0	22.5	17.4	3.0	0.0

¹ Three limited-term positions expired as of June 30, 2013. One permanent Practice Privilege Office Assistant position was eliminated via a negative BCP.

FY 2012-13	Total Budget Act	Practice Privilege	Exam	Initial Licensing	Licensing Administration	RCC	Enforcement	Administration	Executive	Board
\$ Budgeted	\$11,138,377	210,426	866,598	1,300,985	605,291	1,155,907	4,462,554	2,000,197	417,059	119,360
\$ Spent	\$10,069,872	173,158	811,677	1,182,577	563,050	1,299,912	3,442,237	2,129,545	470,587	122,987
Authorized Positions¹	79.9	2.0	6.0	12.0	5.0	11.0	22.5	18.4	3.0	0.0

¹ The elimination of salary savings required by the Department of Finance in FY 2012-13, required the CBA to eliminate 3.6 authorized positions.

CBA Total Revenue and Expenditures





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CBA Item IV.C.
November 19, 2015

Discussion Regarding the California Board of Accountancy's Organizational Effectiveness in Regards to Hiring, Training, and Refilling Vacancies

Presented by: Patti Bowers, Executive Officer

Consumer Protection Objectives

The purpose of this agenda item is to provide the California Board of Accountancy (CBA) with information on the tools that are in place to ensure the organizational effectiveness of the CBA. The organizational effectiveness the CBA has a direct impact on its ability to continue its mission of consumer protection as mandated by statute in Business and Professions Code section 5000.1.

Action(s) Needed

No specific action is required on this agenda item.

Background

As the CBA's Executive Officer, one of my primary responsibilities is the management of CBA operations and personnel resources. I am tasked with ensuring the CBA operates in an effective and efficient manner, with the appropriate level of staff allocated to each program area. It is my job to ensure that the right people are in the right positions at the right time.

Provided in this agenda item is information to assist CBA members in understanding the people and tools I have put into place to ensure the organizational effectiveness of the CBA, including information on hiring, training, and refilling vacancies.

Comments

Provided for CBA Member consideration is the CBA's October 1, 2015 Organizational Chart (**Attachment 1**) which shows the individuals working for the CBA and their reporting relationships. The chart shows two managers who directly report to myself, the CBA's Assistant Executive Officer, Deanne Pearce, and Enforcement Chief, Dominic Franzella.

As the Assistant Executive Officer (AEO), Ms. Pearce oversees both the Administration Division and the Licensing Division with three managers directly reporting to her including the Licensing Division Chief, an Information Officer II, and a Staff Services Manager I (SSMI).

Discussion Regarding the California Board of Accountancy's Organizational Effectiveness in Regards to Hiring, Training, and Refilling Vacancies

Page 2 of 5

Mr. Franzella has five supervisors that report directly to him. This includes three SSMLs and two Supervising Investigative Certified Public Accountants.

The complete management team at the CBA consists of 14 supervisory positions managing a staff of almost 100 positions. In order to assure that we work effectively as a team, I hold a monthly Senior Staff Meeting with the AEO and Enforcement Chief, and I hold a monthly Managers' Meeting with the whole management team.

Hiring Employees

The CBA has delegated "broad administrative authorities" to me (**Attachment 2**) that include the hiring and managing of staff. In turn, I have delegated to Ms. Pearce, as the Assistant Executive Officer, the same authority (**Attachment 3**) in my absence. Although potential candidates for unit coordinator and management positions are discussed with the Executive Office prior to any job offer being made, many hires are at the discretion of the management team. It is my job to communicate my standards and expectations to the managers in order to create a cohesive team and maximize organizational effectiveness.

To that end, I have certain standards that I look for when selecting or promoting staff. The hiring process for California State service is a thorough, merit-based process that assists in placing the right person in the correct position. The interview process consists of performance-based interviews and an in-basket assignment that reflects the duties to be performed on the job.

During the interview process, management evaluates candidates on their communication skills, reliability, overall fit with the classification requirements and position duty statements, and prior experience. After the interview, we perform reference checks, and review candidates' Official Personnel File if they have prior State service.

It is emphasized to all staff that "every day is an interview," and when they apply for positions within the CBA, their current and past performance, as well as their support of the CBA and its mission, are factored into the final hiring decision.

An employee who is hired into a new job classification, or the same classification at a new State agency, is required to undergo a probationary period. The probationary period is typically six months or one year depending on the civil service classification. Regardless of the length of time for the probation, each employee is formally evaluated a minimum of three times during probation as an extension of the interview process. These probation reports are prepared by the supervisor and provide feedback to the employee regarding performance. The hiring process is considered to be complete once the employee has successfully passed probation.

Discussion Regarding the California Board of Accountancy's Organizational Effectiveness in Regards to Hiring, Training, and Refilling Vacancies

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Training Employees

On the employee's first day of work at the CBA, they are provided with a CBA Staff Expectations and Workplace Guidelines memorandum (Expectations Memo) (**Attachment 4**). The Expectations Memo is issued in order to help ensure that the operational needs of the CBA continue to be met and to help the CBA achieve and maintain its maximum potential. It outlines expectations for customer service, the various potential work schedules, requesting time off and other attendance issues, proper use of state time and equipment, and workplace safety.

Staff receive an updated Expectations Memo that they must sign on an annual basis, along with other Department of Consumer Affairs (DCA) policies and procedures.

Each supervisor holds regular, monthly unit meetings with his or her staff to discuss issues and keep staff informed regarding activities outside of the unit that may impact the unit as well. In addition, supervisors use this time to review selected items from the Expectations Memo to keep the material fresh and current.

In addition to unit meetings, I hold all-staff meetings throughout the year to keep staff up to date on the priorities and actions of the CBA. I also use this time to recognize major accomplishments by staff.

To further enhance and communicate training opportunities, we launched the "Grow Your Career" site on the CBA's intranet. This resource provides State career information and provides instructional information on resumes, interview techniques, and lists training resources available to employees.

I believe traditional training is key in building an effective staff and improving overall organizational effectiveness. Historically, the CBA has had sufficient funding for training expenses and has approved all training requests.

Most CBA staff attend training available through DCA's Strategic Organization Leadership and Individual Development (SOLID) Unit. SOLID has a wide variety of courses available to assist individuals at any stage of their career in improving their current job skills or developing new skills for their next position. One particular set of courses, the Analyst Certification Training, is a series of courses designed to assist employees to improve their analytical skills in order to improve their job performance or prepare them to promote to an analyst position.

SOLID is not the only training available. Employees are encouraged to take courses from a wide variety of other training vendors and training formats including live presentations, webinars and other online classes and tutorials.

Discussion Regarding the California Board of Accountancy's Organizational Effectiveness in Regards to Hiring, Training, and Refilling Vacancies

Page 4 of 5

Enforcement staff attends a nationally recognized training program – Council on Licensure, Enforcement, and Regulation National Certified Investigator Training – and the DCA Enforcement Academy.

The CBA management team is required by law to complete 80 hours of management training within one year of being appointed to a management position. This training covers topics such as labor relations, health and safety, performance management, and strategic management.

In addition to classroom style training, the CBA also promotes cross-training in job functions. Many of staff are the only ones performing their specified job duties. While this can be beneficial and lead to expertise in the subject area, it can lead to a loss of knowledge when certain staff pursue other opportunities or retire. Therefore, I encourage the management team to cross-train their employees so that no single function at the CBA would be critically hampered if one particular employee were to vacate the position.

In certain cases, cross-training has led to job rotation in which employees are reassigned to new positions. Such cross-training has previously been undertaken even at the management level.

Once per year, management meets one-on-one with every employee to create an Individual Development Plan (IDP). In the IDP, the supervisor rates the performance of the employee, and the employee prepares a performance plan which frequently involves training. The supervisor then meets with the employee to discuss the ratings and review and refine the performance plan. In many cases, training requests are approved at the IDP meeting.

Refilling Vacancies

It is the paradox of hiring good staff that when you hire well-qualified staff and provide excellent training, you then lose them as they become very desirable and are hired, most often for promotions, by other State agencies. Positions become vacant for many reasons, including internal or external promotions, employees seeking to broaden their skills, retirement, or for family reasons.

To prepare for inevitable vacancies, particularly in key positions that are critical for maintaining the CBA's mission of consumer protection, the CBA has developed a Workforce and Succession Plan (Succession Plan) (see **CBA Agenda Item IV.E.**) which it regularly updates. When vacancies occur, the CBA follows the Succession Plan in order to assure a smooth transition without a loss of organizational effectiveness or risk to consumer protection.

Discussion Regarding the California Board of Accountancy's Organizational Effectiveness in Regards to Hiring, Training, and Refilling Vacancies

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To provide some context for the CBA's discussion, the following is a brief summary of the reasons for the CBA's vacancies for the past two fiscal years.

FY 2013/14 – 18 Total Vacancies

- Promotions 10 (6 internal)
- Transfers¹ 7 (5 internal)
- Retirement 1

FY 2014/15 – 26 Total Vacancies

- Promotions 13 (8 internal)
- Transfers 7 (2 internal)
- Retirement 2
- Left State Service 2
- Disciplinary 1
- Went from a Limited Term to Permanent position 1

It is also important to note the “ripple effect” that a single vacancy can cause, especially when positions are filled by internal promotion. A single vacancy, if filled internally, causes another position to become vacant, which in turn can cause other vacancies through the ranks for each position that is filled internally.

Conclusion

These are the tools that I have put into place to ensure the organizational effectiveness of the CBA. Maintaining a proper balance is an ongoing task as the needs and priorities of the CBA are constantly fluctuating due to internal and external factors. Ensuring the CBA operates in an effective and efficient manner, with the right people in the right positions at the right time, is a large part of maintaining that balance.

Fiscal/Economic Impact Considerations

There are no fiscal/economic impact considerations.

Recommendation

Staff does not have a recommendation on this agenda item.

Attachments

1. CBA Organization Chart
2. Delegation of Authority to Executive Officer
3. Delegation of Authority to Assistant Executive Officer
4. CBA Staff Expectations and Workforce Guidelines

¹ Transfers are a change in position without a change in civil service classification.

DEPARTMENT OF CONSUMER AFFAIRS
California Board of Accountancy
 November 2, 2015

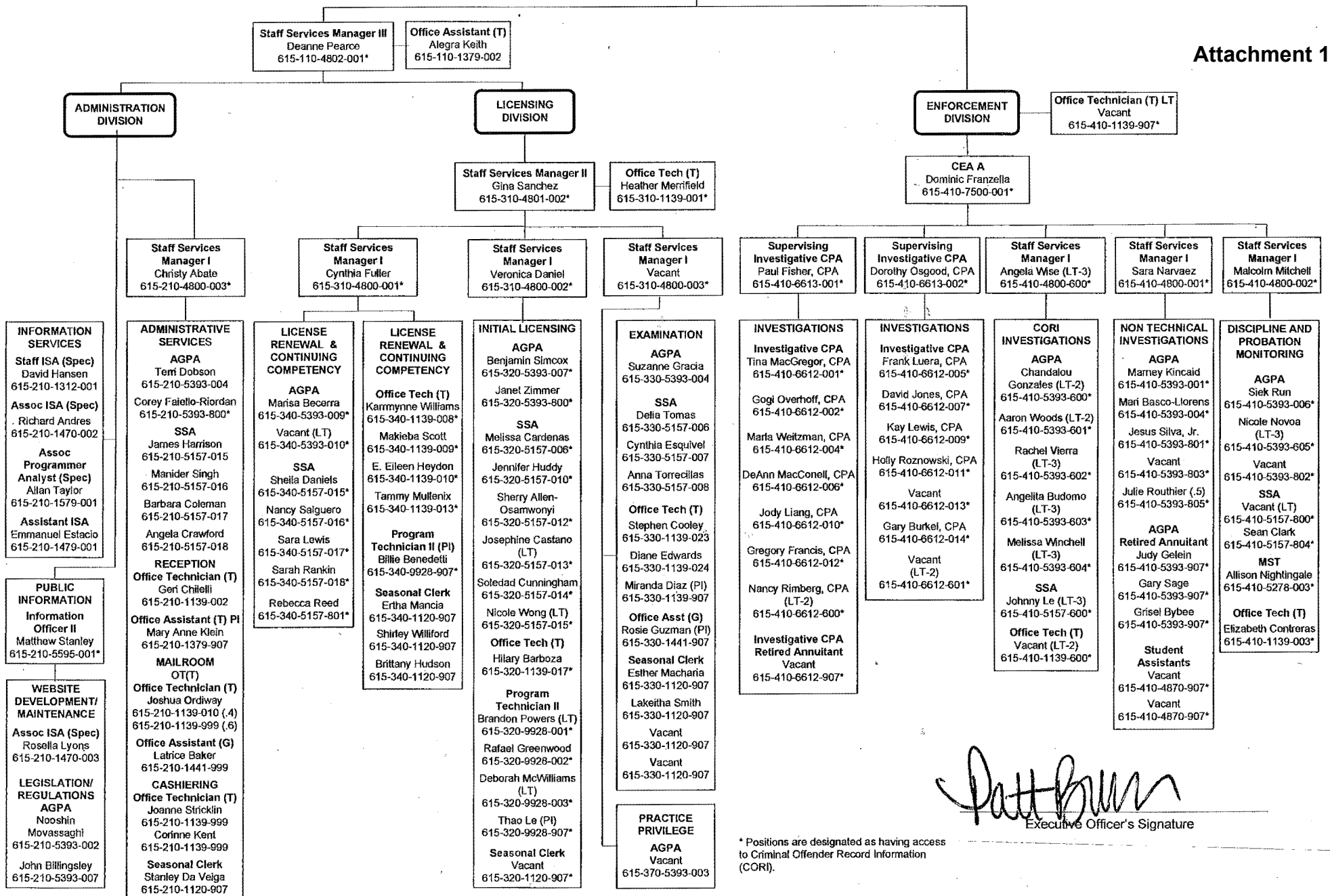
Executive Officer
 Patti Bowers*
 615-110-8954-001

Office Technician (T)
 Vacant
 615-110-1139-027*

CURRENT

FY 2015-16
 82.9 Permanent P.Y.
 11.0 Limited Term
 3.6 BL 12-03 (999 Blanket)

Attachment 1



Patti Bowers
 Executive Officer's Signature

* Positions are designated as having access to Criminal Offender Record Information (CORI).



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FACSIMILE: (916) 263-3675
WEB ADDRESS: <http://www.cba.ca.gov>



Attachment 2

DELEGATION OF AUTHORITY:

RESPONSIBILITIES, DUTIES & FUNCTIONS OF EXECUTIVE OFFICER

Pursuant to the provisions of Section 7 of the Government Code and Sections 10 and 5103 of the Business and Professions Code, Ms. Patti Bowers, Executive Officer, California Board of Accountancy (CBA), is hereby delegated the authority to act on behalf of the CBA in respect to all administrative and enforcement activities entered into by the CBA. Ms. Bowers, as "Executive Officer," is specifically delegated authority to sign accusations and subpoena requests on behalf of the CBA, and is delegated other broad administrative authorities. This includes the power to receive and investigate complaints and to conduct investigations or hearings, with or without the filing of any complaint, and to obtain information and evidence relating to any matter involving the conduct of licensees.

The power and discretion conferred by law upon the CBA to receive and file accusations; issue notices of hearing, statements to respondent and statements of issues; receive and file notices of defense; determine the time and place of hearings under Section 11508 of the Government Code; issue subpoenas and subpoenas duces tecum; set and calendar cases for hearing, and perform other functions necessary to the efficient dispatch of the business of the CBA in connection with proceedings under the provisions of Section 11500 through 11528 of the Government Code, prior to the hearing of such proceedings; and the certification and delivery or mailing of copies of decisions under Section 11518 of said code are hereby delegated to and conferred upon Ms. Bowers.

The authority to issue any notice or order provided for in Article 5.1 of Chapter 1 of Division 3 of the Business and Professions Code and to act on behalf of the CBA, including, but not limited to, issuing a notice of denial of a practice privilege and an interim suspension order, subject to the right of the individual to timely appeal and request a hearing is hereby delegated to and conferred upon Ms. Bowers.

In addition, Ms. Bowers is specifically delegated authority to agree to and accept any stipulated settlement on behalf of the CBA that provides for an interim suspension order, suspending the license of a Certified Public Accountant/Public Accountant, pending the conclusion of a criminal action and administrative hearing concerning the licensee, or the revocation or surrender of a license.


Delegation of Authority
Responsibilities, Duties & Functions of Executive Officer
Page 2

Further, the power and discretion and duties conferred by law upon the CBA to receive and respond to a petition requesting the adoption, amendment, or repeal of a regulation as provided under Section 11340.7 of the Government Code are hereby delegated to and conferred upon Ms. Bowers.

Nothing herein prohibits Ms. Bowers from delegating her authority to subordinates.

This delegation of authority revokes any prior delegation of authority issued regarding the above matter and shall remain in effect until revoked or superseded by a later delegation of authority.

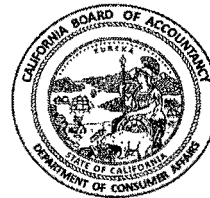
Executed this 22 day of January, 2015 in Sacramento, California.



Jose A. Campos, CPA
CBA President



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Attachment 3

DELEGATION OF AUTHORITY:

RESPONSIBILITIES, DUTIES & FUNCTIONS OF EXECUTIVE OFFICER

Pursuant to the Board's delegation executed on January 5, 2012 and as permitted by the provisions of Section 7 of the Government Code and Section 10 of the Business and Professions Code, I, Patti Bowers, Executive Officer of the California Board of Accountancy (CBA), hereby delegate to Deanne Pearce, Assistant Executive Officer of the CBA, the authority to act in my absence in respect to all administrative and specified enforcement activities entered into by the CBA. Deanne Pearce, is specifically delegated authority to sign accusations and subpoena requests on behalf of the CBA, and is delegated other broad administrative authorities when I am absent. This includes the power to receive and investigate complaints and to conduct investigations or hearings, with or without the filing of any complaint, and to obtain information and evidence relating to any matter involving the conduct of licensees.

The power and discretion conferred upon me by the CBA to receive and file accusations; issue notices of hearing, statements to respondent and statements of issues; receive and file notices of defense; determine the time and place of hearings under Section 11508 of the Government Code; issue subpoenas and subpoenas duces tecum; set and calendar cases for hearing, and perform other functions necessary to the efficient dispatch of the business of the CBA in connection with proceedings under the provisions of Section 11500 through 11528 of the Government Code, prior to the hearing of such proceedings; and the certification and delivery or mailing of copies of decisions under Section 11518 of said code are hereby delegated to and conferred upon Ms. Pearce in the absence of the Executive Officer.

The authority to issue any notice or order provided for in Article 5.1 of Chapter 1 of Division 3 of the Business and Professions Code and to act on behalf of the CBA, including, but not limited to, issuing a notice of denial of a practice privilege and an interim suspension order, subject to the right of the individual to timely appeal and request a hearing is hereby delegated to and conferred upon Ms. Pearce in my absence.

In addition, Ms. Pearce is specifically delegated authority to agree to and accept any stipulated settlement on behalf of the CBA that provides for an interim suspension order, suspending the license of a Certified Public Accountant/Public Accountant, pending the conclusion of a criminal action and administrative hearing concerning the licensee, or the revocation or surrender of a license in my absence.

Delegation of Authority
Responsibilities, Duties & Functions of Executive Officer
Page 2

This delegation of authority revokes any prior delegation of authority issued regarding the above matter and shall remain in effect until revoked or superseded by a later delegation of authority.

Executed this 5th day of January, 2012 in Sacramento, California.

A handwritten signature in black ink, appearing to read "Patti Bowers", written over a horizontal line.

Patti Bowers
Executive Officer
California Board of Accountancy

Memorandum

Attachment 4

To : All CBA Employees

Date : February 5, 2015

Telephone : (916) 561-1711

Facsimile : (916) 263-3674

E-mail : Patti.Bowers@cba.ca.gov



From : Patti Bowers
Executive Officer

Subject : CBA Staff Expectations and Workplace Guidelines

In order to ensure that the operational needs of the CBA continue to be met, and to achieve and maintain our maximum potential, the following CBA Staff Expectations and Workplace Guidelines are being issued. These guidelines are meant to provide consistency throughout the various program units and to meet the challenges of the ever-changing State government.

Each staff member is requested annually to acknowledge by his or her signature, that they received and read a copy of this CBA Staff Expectations and Workplace Guidelines memorandum. In addition, staff are required to annually review the policies noted on page eight of this memorandum and sign each policy's acknowledgement form. Please submit all acknowledgement forms to your supervisor by February 13, 2015.

If you have any questions concerning the information in this memorandum, please see your immediate supervisor. If any provisions of this memorandum are in conflict with a Memorandum of Understanding (MOU), the MOU is controlling.

I. STAFF EXPECTATIONS

A. Customer Service and Business Communications

All employees are responsible for providing excellent customer service to CBA members, applicants, licensees, the general public, and other staff members. Customer service and employee consideration is a CBA endeavor requiring the effort of each staff member to ensure success. Cooperation with and consideration of fellow employees and the public are essential to achieving success.

Consistent with the Department of Consumer Affairs (DCA) [Client Service & Business Communications Policy](#), all CBA employees are required to be:

1. Committed- Understand the client's needs, follow up on requests, and do what is promised.
2. Courteous- Be respectful, professional, and polite.
3. Clear- Understand what is actually needed, clarify requests using questions, give clear instructions, use plain language and not jargon.
4. Correct- Do it right the first time. If you don't know...ask. Use spell check, peer review, etc.

5. Complete- Provide complete instructions and information, and understand that a task is complete when the client is satisfied.
 6. Concise- Be brief but comprehensive. Do not overwhelm others with unnecessary or irrelevant information.
 7. Concerned- Take time to listen and give full attention, and use a tone of voice that conveys that you understand the importance of the request.
(Refer to OHR 11-01)
- B.** The CBA requires each employee to demonstrate fair and equitable treatment to all persons. Employees are expected to act professionally, courteously, and responsibly at all times with particular emphasis on their dealings with the public, consumers, legislators and their staff, representatives of other agencies, and other State employees during the performance of their duties.
- C.** Employees are to be considerate of co-workers when visiting in the office. Socializing is to be kept to a minimum in and around work areas, and is encouraged to take place during rest periods or lunch. When speaking, monitor your volume and be aware of surrounding staff as to not disrupt their work.
- D.** Employees are responsible for maintaining the appropriate level of confidentiality when working with sensitive and/or personal information. It is imperative that employees exercise appropriate care with confidential information and adhere to all DCA/CBA requirements governing confidentiality. Breach of confidentiality may result in disciplinary action, up to and including dismissal. Employees may only access information that is necessary to the performance of their official duties. Information regarding other State employees, clients, consumers, and citizens is not to be released, except in accordance with established procedures and guidelines. All employees having access to privileged and/or confidential information in any form are required to take proper precautions to avoid any breach of confidential information. Discussion of confidential information not relevant to the business need is strictly prohibited. Employees must immediately report any apparent or suspected security breaches to their supervisor.
- E.** Employees are responsible for ensuring the completion of their assignments and following up until completed. This includes keeping the appropriate people informed of the status of each assignment. Completed staff work is always expected. Documents should be in final format, so that they can be read and approved. The requester should not have to correct or rewrite a document. If an employee does not understand an assigned task, they should ask for clarification prior to beginning the project.
- F.** Employees are expected to come to work in appropriate attire. Employees shall wear clothing that is clean and in good repair, and are to observe a high standard of personal hygiene. Dress and appearance should be appropriate for the work being performed. Employees are prohibited from wearing clothing and/or displaying accessories that depict or allude to an obscenity, violence, illegal substances, and other objectionable slogans or messages. Employees may, on certain occasions, be allowed to dress in a manner that is appropriate for special community events.
- G.** Employees should refrain from using or wearing scented items while at work. This includes, but is not limited to: cologne, perfume, aftershave, and hand lotions.

Additionally, please be cautious when using cleaning products at your work space. This includes, but is not limited to: cleaning wipes and spray cleaners (409, Windex, etc.).

- H. Employees' desk, computer files and file cabinets are State property and as such are accessible to their supervisor or co-workers (with supervisor permission) for work-related purposes. Do not keep anything in your desk, computer files, or cabinets which, if found by another, would cause embarrassment to you or the CBA. Employees are responsible for maintaining a clean and professional work area. Work related documents must be kept in a neat and organized manner. Personal belongings in the work area must be kept to a minimum and not interfere with the conduct of work. Employees are prohibited from displaying personal belongings that are of offensive, demeaning, or provocative in nature.
- I. Employees must NEVER solicit or accept gratuities. If you should receive an unsolicited "thank you" gift from one of our applicants, licensees, or other stakeholders, you must notify a supervisor immediately and it should be returned to sender. If it is determined by the supervisor that it cannot be returned to sender then it is to be shared with other staff members or displayed for all to see. Gifts of a large monetary value must be returned or refused at the front counter. If asked how one may show his/her gratitude, simply state, "a letter of appreciation would be nice."

II. WORKPLACE GUIDELINES

A. Office Hours and Work Schedules

Government Code section 11020 requires all offices of every State agency to be kept open for business from 8:00 a.m. to 5:00 p.m. every day, except Saturdays, Sundays, and legal holidays. Per CBA Policy PER 98 49, the total range of working hours for most employees is 7:00 a.m. to 5:30 p.m. The total range of working hours for Investigative CPAs and Associate Governmental Program Analysts is 6:00 a.m. to 7:00 p.m. Work shifts must be scheduled within the ranges relating to each employee's classification. For building security purposes, there are no exceptions to this rule. Upon the request of the employee, an alternate work schedule can be made available when such a schedule is consistent with the CBA's operational needs. When considering an employee's request for a work schedule, supervisors and managers shall consider such factors as office workload, productivity, maximum levels of services to the public, time-sensitive tasks, appropriate assignments of responsibilities, and the availability of adequate lead person/supervisory staff within their own discipline.

B. Lunch and Rest Periods

Lunch periods must be at least 30 minutes and are to be taken between the hours of 11:00 a.m. and 2:00 p.m. If you need to take a long lunch, submit a time off request to your manager. For an eight-hour workday, there is a 15-minute rest period in the morning and a 15-minute rest period in the afternoon. A rest period will not be granted during the first or last hour of the work shift. Rest periods may not be accumulated nor may they be used to make up time.

During morning and afternoon rest periods employees are considered to still be working for the State, while during lunch periods employees are considered to be off work. Consequently, for liability reasons, employees are not permitted to drive their cars during rest periods and are to notify their supervisor when leaving the building grounds during these periods. For employees who must leave the work premises during a rest period, vacation time or compensatory time must be requested from and approved in advance by their supervisor. Employees are permitted to leave their work area, go outside or go to a designated break area during their rest period.

C. Attendance and Leave Requests

Attendance – All employees are expected to maintain dependable and predictable attendance, and to be present in the office during their established work hours except while on approved leave. Employees must commence work promptly at the scheduled work time, and comply with established guidelines for requesting and reporting absences. Employees who fail to demonstrate an acceptable level of attendance may be subject to appropriate attendance restrictions, disciplinary action or both. Attendance and punctuality represent an essential job function and will be considered during performance evaluation. All requests for absence from work must be pre-approved by the employee's immediate supervisor. Requests for non-emergency absences with short notice will be reviewed on a case-by-case basis. The operational needs of the CBA will be the main factor considered in making such decisions.

Vacation, Annual Leave, CTO, PDD, PLP, VPLP, Leave, Holiday Credit, Personal Holiday or Excess Hours – Vacation or other such leave may be used only after first obtaining a supervisor's approval. Please submit requests at least one business day in advance and approval is at the supervisor's discretion. Vacation requests will be reviewed and approval will be based on operational needs, including an employee's workload, the daily operations of the office and sufficient staff coverage. In the event conflicting vacation requests are submitted, each will be reviewed and approved based on seniority (defined as total months of State service) in accordance with applicable bargaining unit contracts. Requests for absences on short notice will be reviewed and approved/denied on a case-by-case basis based on the CBA's operational needs. Please submit requests for extended (one week or more) leave in writing one month prior to the time desired. This is to ensure that there is sufficient coverage to address daily operations. Extension of vacation time while on vacation must be requested early enough to allow approval by the last working day before a vacation is scheduled to end.

Sick Leave Requests – Sick leave may be requested and taken in 15 minute increments. Sick leave requests for routine medical or dental appointments must be submitted to the supervisor at the earliest date possible prior to the scheduled appointment. Supervisors may request substantiation, usually in the form of a doctor's note, for all sick leave use, regardless of whether the request is for personal or family sick leave, in accordance with the appropriate bargaining unit contract

Unexpected Illness – An employee calling in sick must contact and leave a message for their supervisor no more than 30 minutes after their start time. If the immediate supervisor is unavailable, the employee must leave a voice mail

message for their supervisor with a phone number of where the employee can be reached, indicate the reason for the absence, anticipated return date and time (if partial day off is requested, and then speak directly with another manager or designee. An available manager can be identified by calling the CBA main office number at (916) 561-1700, between the hours of 8:00 a.m. and 5:00 p.m. Requests for sick leave due to illness are to be submitted on the day the employee returns to work. Employees are expected to adhere to their established schedules and leave request requirements prescribed herein. Failure to do so may result in the leave being unapproved and recorded as Absent Without Leave (AWOL).

Late Arrivals/Tardiness – Employees are expected to be at their desks ready to begin work at their established start time and return times from rest periods and lunch.

It is an employee's responsibility to notify their supervisor when they are unable to report to work on time. If an employee is unable to arrive at their regular start time, they must call the office within 30 minutes of their start time to notify their manager of their status. When employees are late, upon arrival they must complete a Request for Time Off and report directly to their supervisor in person or designated lead person. It will be at the supervisor's discretion as to how the absent time will be charged. Vacation, sick leave, personal holiday(s), State holiday credits, compensating time off, excess hours and personal leave credits cannot be used to compensate for an employee's tardiness or for leaving work early without a supervisor's prior approval.

A pattern of tardiness and continual unsubstantiated absences is not acceptable and may result in disciplinary action. Employees arriving late to work or leaving work early without their supervisor's approval may have the time recorded on their monthly attendance report as unapproved dock (AWOL).

Make-up Time in Advance – A supervisor may allow an employee to make up time *in advance*, in not less than 15 minute increments. Please note all make up time is at the discretion of the supervisor. To request and make up time, employees must advise their supervisor in writing as to how they will adjust their schedule for that same workweek to make up the necessary time. If the pay period ends midweek, time must be made up by the final day of that pay period. Excessive tardiness will result in the loss of this privilege.

Bereavement Leave – The number of hours or days and the name and the relationship of the deceased must be provided to the supervisor before bereavement leave will be granted. The maximum amount of time available for bereavement leave, as well as the relationship of the deceased that qualifies for an employee to use bereavement leave, is outlined in each bargaining unit contract. Substantiation for bereavement leave may be required.

Paid Union Leave –The supervisor must receive notification from DCA/Labor Relations Unit before approving any request for Paid Union Leave. The employee may request the use of other leave time (e.g., vacation, CTO, etc.) until the Paid Union Leave notification has been received and approved. Approval will be based on the CBA's operational needs, including an employee's workload, the daily operations of the office and sufficient staff coverage

Overtime – Overtime must be requested and approved in advance. Overtime requests shall be submitted to an employee's supervisor for review prior to approval and must include a description of the work to be performed and the number of hours requested.

D. Timesheets

Employees must submit their timesheet to the supervisor by close-of-business on the last working day of the pay period. If an employee has scheduled time off on the last day of the pay period, a signed timesheet is to be submitted before leaving. If an employee has an unexpected absence on the last working day of the pay period, upon return to work a timesheet must be immediately submitted to the supervisor. If an employee is on dock during the month, he/she must report their dock to CBA's attendance coordinator by the monthly dock cutoff date. If the employee is on dock after the monthly dock cutoff date, he/she must report it to the attendance coordinator as soon as the dock occurs.

E. Communication Devices

State-Issued Communication Devices – State-issued communications devices are provided to CBA personnel for business purposes. Employees may use State-issued communications devices for purposes related to the user's State governmental duties. Minimal and incidental personal use of a State-issued device is permissible if the use does not interfere with the conduct of State business, nor result in additional costs to the State.

Personal Communication Devices – Employees are to limit personal telephone calls while at work and such calls are to be made or received primarily during scheduled lunch or rest periods. In emergency situations, calls may be made during work time, but such calls should be of limited occurrence and duration, and must be conducted in a manner that does not interfere with the employee and/or co-workers' work.

Long Distance Phone Calls – Employees must use their personal cell phones to make personal long distance calls. Employees may use their calling card or call collect when making personal long distance calls from a state issued phone. It is an employee's responsibility to know whether a personal call will result in an additional charge to the State.

The CBA routinely audits telephone and personal communication device bills, and your supervisor will be notified of any personal long distance calls. You will be required to reimburse the CBA for the charges incurred, and a pattern of abuse in this area could lead to disciplinary action.

Radios, Televisions, and Personal Electronic Equipment – Radios are permissible at the discretion of the supervisor. The use of radios must not interfere with an employee's own work or the work of others. Televisions are not allowed in the workplace. The use of personal technology devices such as: smart phones, tablets, laptops, etc. must not interfere with State business or reduce productivity. The use of cameras, mobile phone cameras, video recorders, etc. is prohibited in

work areas where there is an expectation of privacy or where confidential information may be copied and/or transmitted.

F. State Equipment, Supplies and Services

State Equipment and Supplies – Employees are to use State-owned equipment, supplies, and services in a safe and efficient manner and for State business purposes only. State-owned equipment must be kept clean and in good working condition. Unsafe working conditions or equipment must be reported immediately. No plants or liquid items such as coffee, water, soda, etc. can be kept near electronic equipment of any kind. Employees are responsible for all State equipment and supplies issued to them. All such items must be surrendered to management upon request.

Personal Computer (PC) Usage – State-issued personal computers are provided for business purposes. Minimal and incidental personal use of the PC is permissible if the use does not interfere with the conduct of State business, nor result in additional costs to the State. Use of the PC to access personal emails or social networking sites (such as, but not limited to, *Facebook, MySpace, LinkedIn, YouTube, Twitter*, etc.) must be confined to non-work hours only.

Mass Emails – In accordance with Department of Consumer Affairs (DCA) Policy # ISO 05-01, employees must obtain management approval prior to sending mass emails, with the exception of the following:

- E-mails directly related to employees' work function
- Looking for misplaced files
- Mailroom emails about mail delivery/lost mail/unclaimed mail, etc
- Announcements of "on-site" meetings
- Announcements by personnel staff regarding dock dates, time sheets, etc
- Bus passes
- Lost and found items
- Free "treats" to share with other staff
- Kitchen clean-up

Employees seeking to make announcements regarding fund-raisers, have items for sale, or wish to make some other announcement can use the Intranet Bulletin Board or Break room Bulletin Board.

G. Voice Mail and Microsoft Outlook

Voice Mail – Voice mail must be changed from standard greeting to alternate greeting every time an employee is away from the office for business or personal reason for a full day or more, except when instructed otherwise. The alternate greeting must include the notification that the employee is away from the office, the anticipated return date, and the back-up's contact information including full name, and telephone number, including the area code. Return phone calls and emails should be made within one business day. During an employee's absence, a designated back-up person will assume the responsibilities; therefore, designated back-up persons should maintain familiarity with the critical issues in their partner's assignments.

Microsoft Outlook – Employees must maintain professionalism at all times when communicating via email. An Out-of-Office message must be activated when an employee is away from the office for scheduled business or personal reason for a full day or more, except when instructed otherwise. The Out-of-Office message must include the notification that the employee is away from the office, the anticipated return date, and the back-up's contact information including full name, telephone number including the area code, and email address.

H. Building Safety and Security

Employees must immediately alert their supervisor of any security concerns or any apparent and/or potential hazard in the workplace and, if possible, flag or mark off area. All non-public entrance doors must be securely closed after entering or exiting the office. Employees should not hold employee entrance doors open to unauthorized individuals. The use of a cardkey by anyone other than the assigned cardkey holder to access a secured door is prohibited. All visitors must sign in/out with building security.

III. ANNUAL POLICY CERTIFICATION

All employees must annually review and sign the below policies and forms. The signed acknowledgment forms will be kept in the supervisor drop files or, if so indicated, forwarded to the DCA Personnel Office for filing in each employee's Official Personnel File (OPF).

- A. [Acceptable Use of Information Technology Systems](#)
- B. [Authorization to Use Privately Owned Vehicles on State Business \(Std. 261\)](#) (copy to OPF)
- C. [Communications Devices Policy](#)
- D. Drug-Free Workplace Policy (*See Attachment: Drug-Free Workplace Policy, PER-0405*)
- E. [Incompatible Work Activities](#) (OPF)
- F. [Information Security Policy](#)
- G. [Illness and Injury Prevention Plan](#)
- H. [Non-Discrimination Policy and Complaint Procedures](#) (OPF)
- I. [Sexual Harassment Prevention Policy](#) (OPF)
- J. [Workplace Violence Prevention](#).

**California Board of Accountancy
Staff Expectations and Workplace Guidelines
Acknowledgment Form
February 5, 2015**

I hereby acknowledge receipt of the California Board of Accountancy Staff Expectations and Workplace Guidelines, dated February 5, 2015. I understand that persons who violate any of the guidelines, or any of the policies referenced in the guidelines may be subject to disciplinary action.

My signature on this acknowledgment form does not modify my employment relationship with the California Board of Accountancy as set forth in the most current Memorandum of Understanding appropriate to my employee bargaining unit.

This signed acknowledgment form will be filed in your OPF and a copy will be maintained in your supervisor's employee file.

Printed Name

Signature

Date



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CBA Item IV.D.
November 19, 2015

Discussion Regarding the California Board of Accountancy's Public Communications and Outreach Activities and Plan

Presented by: Matthew Stanley, Information and Planning Officer

Consumer Protection Objectives

The purpose of this agenda item is to keep the California Board of Accountancy (CBA) informed of the communications and outreach efforts and activities to keep consumers and other stakeholders informed regarding CBA activities.

Action(s) Needed

No specific action is required on this agenda item.

Background

Over the past several years, staff have kept the CBA informed of communications and outreach efforts through a standing agenda item that was provided as a written report only. Going forward, this item will no longer be a written report only in order to reflect a new direction in the CBA's communications and outreach efforts and afford CBA members the opportunity to discuss the topic.

Staff continue to leverage outreach opportunities to: inform and educate students and faculty about the educational requirements for licensure; the general public as to best practices that enhance consumer protection; and licensees regarding the activities of the CBA.

Comments

In consultation with the Executive Officer, the new Information and Planning Officer will be taking a more proactive approach and generally increasing the CBA's outreach and communications efforts in the coming year. Some of these efforts include developing short educational videos with the assistance of NASBA, developing a bank of presentations that would be available for various speaking engagements, and actively seeking outreach opportunities. Other efforts will be explored as CBA members will see a revised, and improved, format for this standing agenda item beginning at the CBA's January 2016 meeting.

In addition, new resources have been developed and created over the past several months to provide a more professional appearance and to assist staff during CBA

Discussion Regarding the California Board of Accountancy's Public Communications and Outreach Activities and Plan

Page 2 of 5

outreach events. The resources on hand now include comment and question cards, table skirts, mission statement foam-core poster boards, and education requirements foam-core poster boards. For the CBA's information, samples of these items will be displayed at its November 2015 meeting.

CBA Website

One of the new areas staff will be covering in this standing agenda item will be the CBA website. The website is a major part of the CBA's communications and outreach, and it is currently undergoing a major redesign to conform to the new State template. This new format will give the CBA website a whole new look and feel as it takes advantage of newer Internet capabilities. One of the most important new capabilities will be compatibility with handheld devices such as phones and tablets. Currently, the CBA website is not formatted to be viewed on a phone or tablet.

It is our goal to launch the new website around the time that the CBA moves to its new office location.

In order to demonstrate how the website is being used, from time to time, this report will provide various information on website usage. For the 2014-15 fiscal year, the top three resources accessed through the website were as follows:

- Materials Checklist for Type A, B, or C Application (a checklist of items that must be submitted to the CBA prior to licensure)
- CPA Licensing Applicant Handbook
- 2014 Sunset Review Report

Recently Completed Outreach

Study on the Attest Experience Requirement for Licensure

A second postcard was mailed to licensees and applicants reminding them about the CBA's Study on Attest Experience. The postcard requests that the recipient provide feedback regarding the 500-hour attest experience requirement for CPA licensure and includes information on accessing the survey. The goal was to solicit a significant response to the survey, which closed on October 31, 2015. In addition, other efforts for the Attest Study have included E-News, and social media outreach.

CSU, Sacramento

Staff attended an event hosted by the Accounting Society at California State University (CSU), Sacramento on October 8, 2015. The event provided an opportunity to review the requirements needed for the Uniform CPA Examination and CPA licensure. The Accounting Society event allowed staff to answer numerous questions from the approximately 100 students in attendance. Staff left behind cards with the CBA's contact information and encouraged students to contact the CBA with any further questions they may have.

Discussion Regarding the California Board of Accountancy's Public Communications and Outreach Activities and Plan

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Pathway Extension Expiration

The Legislature provided a temporary extension for Pathways 1 and 2 as the new licensure requirements were being implemented. That extension comes to an end on December 31, 2015. Staff have conducted significant outreach to let licensing applicants know that after that date, they will be required to meet the new licensure requirements. As a part of that outreach effort, monthly social media reminders have been posted, a paragraph was added to all status letters sent to applicants, and information was added to the CBA website.

Upcoming Outreach

CSU, Chico

Staff will attend an event scheduled for November 17, 2015 at CSU, Chico. This event will provide another opportunity to inform students of the licensure requirements so that they will be qualified for licensure when the time comes for them to apply. It is expected that approximately 70 students will be in attendance.

Sacramento Chapter of CalCPA

Vice-President Katrina Salazar is scheduled to address the Sacramento Chapter of the California Society of Certified Public Accountants on November 18, 2015. She will be providing an overview of the CBA's functions and its accomplishments during 2015.

Future Outreach

High Schools

Following the presentation by Mobility Stakeholder Group member Don Driftmier at the CBA's September 2015 meeting regarding his outreach efforts to high school counselors, staff have begun exploring resources that are available or could be developed to communicate to high school students and the best way to spread that message. These methods potentially could involve outreach to high school guidance counselors or participation in career fairs at high school campuses. Staff will keep the CBA informed as progress is made in this outreach effort.

Travel

In 2011, Governor Edmund G. Brown issued Executive Order B-06-11 which restricted in-state and out-of-state travel. Only travel for mission critical purposes was to be allowed. While the Governor's Office maintains approval authority for what it deems "mission critical" out-of-state travel, staff was recently reminded that the CBA's Executive Officer is authorized to determine "mission critical" as it applies to in-state travel. The Executive Order outlines a few examples of what is and what isn't to be considered mission critical, but it does not speak to every situation.

One of the items that was not covered was outreach events. Such events at colleges and universities have previously been approved by the Department of Consumer Affairs. Relying on those prior approvals, the CBA's Executive Officer has determined

Discussion Regarding the California Board of Accountancy's Public Communications and Outreach Activities and Plan

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that assisting potential licensees in being aware of the CBA's licensing criteria helps to ensure that these students are qualified when the time comes for them to apply for licensure is mission critical. Therefore, going forward, staff will be able to more readily accept invitations to speak at college and university campuses.

What this also means is that the Executive Officer will be able to review invitations for speaking engagements that are received by CBA members rather than having to submit requests to the Department of Consumer Affairs (DCA) for approval. The speaking engagement must be critical to the mission of the CBA which is, "to protect consumers by ensuring only qualified licensees practice public accountancy in accordance with established professional standards."

If a speaking engagement is determined to not qualify as "mission critical," CBA members may still personally accept the invitation as a CPA or expert in the field, but they would not be allowed to represent the CBA in such a scenario and would not be reimbursed for any expenses.

Publications

The Fall 2015 edition of the CBA's UPDATE publication has been published. This edition includes articles on:

- Retired Status
- Update on the Attest Study
- Peer Review
- What to Do if a Complaint is Filed Against You
- CBA's 2014-15 Annual Report

Should any CBA member have an idea regarding an article for a future edition of UPDATE, please notify CBA staff.

E-News

The following table indicates the number of subscribers by areas of interest, with many subscribers choosing more than one area of interest.

E News Subscriptions	External	Internal	Total
Consumer Interest	4,502	65	4,567
Examination Applicant	2,939	50	2,989
Licensing Applicant	3,584	55	3,639
California Licensee	9,615	61	9,676
Out-Of-State Licensee	2,358	55	2,413
Statutory/Regulatory	7,781	71	7,852
CBA Meeting Information & Agenda Materials	3,686	52	3,738
Update Publication	7,396	34	7,430
Total Subscriptions	41,861	443	42,304
Total Subscribers	13,396	84	13,480

Discussion Regarding the California Board of Accountancy's Public Communications and Outreach Activities and Plan

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Social Media

The CBA currently has 3,069 fans on Facebook, 1,704 followers on Twitter, and 1,750 direct connections on LinkedIn. The CBA also has five boards on Pinterest. As we head into the new year, staff will be making an effort to increase the CBA's reach and presence on social media.

As directed by the CBA at its September 2015 meeting, staff posted on social media regarding the CBA's Annual Report, and the various posts were viewed 1,229 times, and the California Business, Consumer Services and Housing Agency, which is the parent agency of the DCA, re-tweeted the post extending the reach even further. In addition, the link to the report was emailed out to E-News subscribers.

Press Releases

The CBA issued the following press releases:

- "Legislature Passes CBA Sunset Extension Bill" on September 30, 2015
- "CBA Sunset Extension Bill Signed by Governor" on October 9, 2015

Fiscal/Economic Impact Considerations

There are no fiscal/economic impact considerations.

Recommendation

Staff do not have a recommendation on this agenda item.

Attachment

None.



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CBA Item IV.E.
November 19, 2015

Report on 2016-2018 Workforce and Succession Plan

Presented by: Matthew Stanley, Information and Planning Officer

Consumer Protection Objectives

The purpose of this agenda item is to expose the 2016-18 Workforce and Succession Plan (Plan) to the California Board of Accountancy (CBA). The issue of succession planning is central to the CBA's ability to continue providing effective service and protection to the stakeholders of this agency, and revolves around having capable management and staff to meet the needs of the public it protects, its licensees, and the other stakeholders.

Action(s) Needed

No specific action is required on this agenda item.

Background

The CBA recognizes the value of initiating proactive steps to address specific succession issues that may develop in the future. The 2016-2018 Workforce and Succession Plan replaces the 2013-2015 Workforce and Succession Plan.

Comments

Workforce planning is a methodical process for ensuring the right people with the right skills will be available at the right time to perform needed tasks. Workforce planning enables the CBA to proactively plan for and address changes in strategic direction of the workforce. A dynamic and continuous process, workforce planning extends beyond leadership succession to encompass all of an organization's staffing and leadership endeavors related to recruitment, training, development, retention and organizational knowledge.

The CBA has historically demonstrated its commitment to workforce planning by ensuring its organizational structure was built in such a manner to facilitate achieving its mission. In addition, it has proactively taken steps to ensure it had staff resources positioned in such a manner that the right people are in the right place at the right time to achieve goals and objectives.

This Plan encompasses all of the major program components of daily operations at the CBA. The Plan provides a blueprint for CBA members to select a new Executive Officer should the incumbent vacate the position, and for the Executive Officer to address a

Report on 2016-2018 Workforce and Succession Plan

Page 2 of 2

vacancy in any of the other Senior Staff positions, including the Assistant Executive Officer and the Enforcement Chief. The Plan then details how losses of other CBA supervisory staff might be mitigated.

The 2016-2018 Plan contains the following key changes:

- Revision of the Senior Management Staff to include only the Executive Officer, and the two positions with direct reporting to the Executive Officer, the Assistant Executive Officer, and Enforcement Chief
- Integration of the 2016-2018 Strategic Plan goals
- Inclusion of the Information and Planning Officer as a supervisor in the administration unit
- Updated workforce statistics
- Addition of the new “Effective Workforce and Succession Planning for California’s IT Workforce” Toolkit
- Updated Delegation of Authority and Organization Chart

This CBA 2016-2018 Workforce and Succession Plan is not intended to be strict policy or procedure, it is simply a guide. With this Plan, and the steps that have been taken to secure institutional knowledge, the CBA is in a markedly better position to address the loss of key leadership and attrition of staff in years to come.

Fiscal/Economic Impact Considerations

There are no fiscal/economic impact considerations.

Recommendation

Staff does not have a recommendation on this agenda item.

Attachment

2016-2018 Workforce and Succession Plan

CALIFORNIA BOARD OF ACCOUNTANCY



WORKFORCE AND SUCCESSION PLAN 2016-2018

COMMITTED TO THE DEVELOPMENT OF
EMPLOYEES AND FUTURE LEADERS

Workforce and Succession Plan

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BACKGROUND

The California Board of Accountancy (CBA) recognizes the need to initiate proactive steps to address specific succession issues that may develop in the future. The issue of succession planning is central to the CBA's ability to continue providing effective service and protection to the stakeholders of this agency, and revolves around having capable management and staff to meet the needs of the public we protect, our licensees, and the Administration of the State of California.

The CBA employs a staff of approximately 100, the majority of whom are California civil service employees. Although the CBA values all of its employees and believes that the loss of any staff may impact business functions, the "succession element" of the CBA 2016-2018 Workforce & Succession Plan (Plan) begins with a focus on Senior Management Staff (Senior Staff) encompassing the Executive Officer, Assistant Executive Officer, and Enforcement Chief due to the fact that the loss of these staff could potentially create the greatest impact to the CBA mission of protecting consumers. The Plan then details how losses of other CBA supervisory staff might be mitigated.

This Plan addresses "workforce planning" related to key CBA staff, and concludes with a discussion of the CBA workforce generally including an overview of risk and risk remediation that has taken place to ensure the right people are in the right positions, at the right time.

WHAT IS SUCCESSION PLANNING?

Succession planning is working to ensure the continued effective performance of an organization, division, or work group, by making a provision for the development and replacement of leaders over time. The goal of succession planning is to match the organization's available (present) talent to its needed (future) talent, to ensure that the lessons of organizational experience (institutional memory) will be preserved and combined with reflection on that experience to achieve continuous improvement in work results.

THE CBA SUCCESSION PLAN

This Plan encompasses all of the major program components of daily operations at the CBA. The Plan provides a blueprint for CBA members to select a new Executive Officer should the incumbent vacate the position, and for the Executive Officer to address a vacancy in any of the other Senior Staff positions, including the Assistant Executive Officer and the Enforcement Chief.

Each of the next four sections of the Plan address CBA Senior Staff positions and discusses strategies and directions regarding steps to be taken following notice of an impending vacancy. Other than the appointment of an Executive Officer, the processes described are internal, and it is incumbent upon CBA staff to address and perform the steps as described.

The Executive Officer

The CBA Executive Officer reports directly to the CBA and is responsible for the administration and management of CBA programs and resources. The Executive Officer interprets and executes the intent of all CBA policies, governs the management of the CBA programs and day to day operations, and serves as the liaison between the CBA and the Department of Consumer Affairs (DCA). Although the Executive Officer is a civil servant, the position is classified as exempt and therefore does not follow the normal civil service hiring guidelines. The CBA must follow DCA guidelines for hiring an exempt employee, but has substantial latitude in the hiring process of an Executive Officer. Because of the level of responsibility of the Executive Officer, it is generally requested that the incumbent provide at least 90 days notice of intent to vacate the position.

ACTIONS TO TAKE IMMEDIATELY

The CBA Executive Officer is integral to the daily function of CBA operations. It is highly recommended that the current Executive Officer and Senior Staff meet with the CBA Executive Leadership to make sure they are aware of all current events, and to apprise staff of any pending issues of high priority. This will help ensure a smooth transition once the current Executive Officer vacates their position.

The process to hire a new Executive Officer can be extremely lengthy, depending upon various factors. As such, the first priority of the CBA should be to designate an Interim Executive Officer. Since the Executive Officer acts upon the delegated authority of the CBA, it is important that those delegations be transferred to the Interim Executive Officer. A list of current authorities delegated to the Executive Officer by the CBA is shown in **Attachment 1**, and the CBA may choose to delegate other authorities as appropriate. Additionally, **Attachment 2** reflects authorities delegated to the Executive Officer and the Enforcement Chief by the Director, Department of Consumer Affairs.

Depending upon when the Executive Officer vacates the position in relation to the next scheduled CBA meeting, it may be necessary for the CBA to call a special meeting to address the pending vacancy. The CBA President should consult with CBA staff to determine if a special CBA meeting is required.

At the meeting, the CBA should:

- Appoint an Interim Executive Officer
- Consider the previous Delegation of Authority, and what authorities the CBA will delegate to the Interim Executive Officer or other CBA staff
- Consider where to advertise the vacancy
- Consider the Minimum Qualifications for the next Executive Officer

APPOINTING A NEW EXECUTIVE OFFICER

The Executive Officer serves at the pleasure of the CBA, and therefore the responsibility of selecting an Executive Officer lies with the CBA members. In order to facilitate the appointment of a new Executive Officer, the CBA has three options:

1. Perform the hiring process as a full board
2. Establish a sub-committee to complete the hiring process
3. Hire an outside consulting firm to present a list of qualified candidates.

If the CBA chooses to complete the hiring process internally, either as a whole or through a sub-committee, the first step is to identify the knowledge, skills, and abilities that are desired in the new Executive Officer. The CBA may choose whichever qualifications they feel are the most important, and the following are only a suggested list:

- Baccalaureate degree or higher
- Commitment to consumer protection
- Strong management and communication skills
- Ability to sustain a positive workplace environment
- Experience working with regulatory boards and governmental agencies
- A successful track record in moving programs, initiatives, and policy forward
- Ability to understand and respond to high level, complex issues through thinking strategically

After the desired qualifications have been determined, the CBA must advertise the vacancy. State employment guidelines mandate that the position be advertised on the California Department of Human Resources (CalHR) website, however any additional advertisements are strictly under the purview of the CBA. In the past, advertisements soliciting applications have been placed in the major California newspapers, and as far away as the Wall Street Journal. CBA staff will be able to assist the CBA in any advertising as needed.

Once a sufficient number of applications have been received, the CBA may meet to deliberate and review the applications. In accordance with the Bagley-Keene Open Meeting Act, if more than two CBA members are present the meeting must be noticed; however the meeting may be held entirely in closed session.

Once the most desirable candidates have been selected, interviews are held. Although the meeting must be noticed, the interviews may be held in closed session. The composition of the interview panel is at the discretion of the CBA.

After a consensus has been reached and a candidate has been chosen, the CBA President or their designee meets with the candidate to offer them the position. The meeting may be held in closed session. At the meeting the CBA negotiates with the candidate their salary, which must fall within the salary range as designated in the civil service classification. After the meeting the CBA must vote as a whole to appoint the new Executive Officer.

AFTER THE APPOINTMENT

Immediately following the appointment of a new Executive Officer, the CBA should vote to delegate authority to the new Executive Officer. A list of all current

delegations is included in **Attachment 1**, and the CBA may delegate as much or as little authority as they choose. The Executive Officer should additionally obtain a delegation from the Director, Department of Consumer Affairs for the authority to conduct investigations and other enforcement related activities (**Attachment 2**).

Once chosen, the Executive Officer should hold a Senior Staff roundtable in order to familiarize themselves with current staff. One of the major aspects of that meeting is to ensure that the new Executive Officer is apprised of any pending issues of high priority and all current events. The Executive Officer should then hold a meeting with all CBA staff, preferably with the CBA President, to announce the appointment.

The Executive Officer is evaluated by CBA members on a yearly basis. In September of each year, CBA staff presents an Annual Report and all current CBA members are provided an Executive Officer Appraisal Form. The forms are filled out by all members and sent directly to the CBA President. The CBA has the option of meeting in closed session to discuss the Executive Officer's performance appraisal. The CBA President and Vice President then meet with the Executive Officer to discuss the ratings from the CBA members. Any pay increases are generally negotiated at this time.

THE ASSISTANT EXECUTIVE OFFICER

The Assistant Executive Officer is responsible for planning, directing, and organizing the statewide activities of the Licensing and Administration Divisions. Important responsibilities include formulating and recommending operational policy, implementing regulations, overseeing legislative activities, providing guidance for IT projects, providing oversight of a comprehensive constituent and public information and consumer education program, and the CBA Budget. The Assistant Executive Officer attends all CBA meetings, and is delegated the authority to act in the stead of the Executive Officer should the need arise. It is requested that the Assistant Executive Officer provide 90 days notice of their intent to vacate the position; however, California civil service guidelines mandate the incumbent is only required to provide 15 days notice should they leave for a promotion. The Assistant Executive Officer reports directly to the Executive Officer, and has a span of control of approximately 65 staff.

ACTIONS TO TAKE IMMEDIATELY

The Executive Officer may choose to designate a staff member to serve as the Interim Assistant Executive Officer; however, because the Assistant Executive Officer is responsible for two completely separate programs, there is not a natural line of succession in the CBA Organization Chart (**Attachment 3**). Fortunately, due to current cross training practices and the close working relationship of all CBA management, the Manager, Administrative Services and Licensing Chief are able to work closely to address any problems. It is important that a meeting be held before the current Assistant Executive Officer leaves. This will ensure that the Interim Assistant Executive Officer, Licensing Chief, Executive Officer, Information and Planning Officer,

Administrative Services Manager, and Staff Information Systems Analyst are all aware of any current administration, licensing, information technology or personnel issues that need to be addressed.

The Assistant Executive Officer has a separate Delegation of Authority from the Executive Officer, (**Attachment 4**) and it is important that it and any signature authority be transferred to the Interim Assistant Executive Officer or any other member of CBA management as soon as possible in order to avoid any disturbance to work flow.

APPOINTING A NEW ASSISTANT EXECUTIVE OFFICER

The term "Assistant Executive Officer" is actually a working title. The Assistant Executive Officer is classified as a Staff Services Manager III in California civil service. Unlike the Executive Officer, the Assistant Executive Officer is a civil service employee and therefore the hiring process is much more defined. Interested candidates must either:

1. Be a current California civil service employee employed as a Staff Services Manager III, or appointed to a classification that can transfer to that classification pursuant to SPB Rule 430-433, OR
2. Be reachable on an Employment Certification List pursuant to Government Code Section 19057.1

Once the Assistant Executive Officer position becomes vacant, the position is advertised on the CalHR website. Interested applicants submit a Standard State Application and a Statement of Qualifications. The applications are then screened, and only the most qualified are selected for an interview. The interviews are conducted by the Executive Officer and either a representative from DCA or the CBA. Subsequent to a fingerprint and Criminal Offender Record Information background check, the desired candidate is offered the position.

AFTER THE APPOINTMENT

It is extremely important that the Assistant Executive Officer be familiar with both the Administration and Licensing Divisions. In order to address the knowledge gap new hires to this position might have, it is important for Senior Staff to hold a roundtable and address any issues presented. The Assistant Executive Officer should then meet with all applicable DCA Budget, Contracts, and Personnel staff to familiarize themselves with those programs. Finally, the Executive Officer should call a meeting with all CBA staff to introduce the new Assistant Executive Officer.

Because the Assistant Executive Officer acts for and represents the Executive Officer in his/her absence, it is vitally important to begin training the new Assistant Executive Officer on the responsibilities of the Executive Officer as time permits. The training should include accompanying the Executive Officer to Executive Management Meetings at the DCA and with the CBA as appropriate, attending applicable training, and becoming as familiar as possible with all program areas of the CBA.

The Assistant Executive Officer serves a one year probationary period, in which the incumbent is rated every four months. Assuming the incumbent passes the probationary period, they are given an evaluation annually in the form of a Individual Development Plan. That plan outlines the areas of possible growth for the employee, and identifies the areas of strength. The Assistant Executive Officer is evaluated by the Executive Officer.

THE ENFORCEMENT CHIEF

The Enforcement Chief is responsible for a staff of approximately 40, reports directly to the Executive Officer, has extensive contact with the California Attorney General's Office (AG) and the Deputy Attorneys General (DAG), and serves as a member on the CBA's Mobility Stakeholder Group. It is requested that the Enforcement Chief provide at least 90 days notice of their intent to vacate their position; however, none is required by California civil service guidelines.

The CBA Enforcement Chief assists with the creation and implementation of policy affecting not only the Enforcement Division, but the CBA as a whole; and oversees the enforcement of laws and rules governing the practice of public accountancy. The Enforcement Division consists of five units - two Technical Units consisting of licensed Investigative Certified Public Accountants (CPAs) performing in-depth investigative work; a Non-Technical Unit comprised of analytical and support staff performing investigations of an administrative nature; a Discipline and Probation Monitoring Unit that implements and monitors the disciplinary actions of the division; and the Criminal Offender Record Information (CORI) Unit that was formed to facilitate the implementation of fingerprint collection for the licensee's of the CBA. Enforcement Division staff also support two statutorily mandated CBA committees, the Enforcement Advisory Committee (EAC) and the Peer Review Oversight Committee (PROC), and one CBA standing committee, the Enforcement Program Oversight Committee (EPOC).

ACTIONS TO TAKE IMMEDIATELY

When the Enforcement Chief position becomes vacant, the first step, should senior management decide it is appropriate, is to assign a supervisor in the Enforcement Division to act as an Interim Enforcement Chief. Due to the current cross-training practices, either a Supervising Investigative CPA or an Enforcement Unit Manager would be able to fulfill the role of Interim Chief. Once an Interim Enforcement Chief is appointed, the Executive Officer should call a Senior Staff meeting to address any pending enforcement issues.

The first task of an Interim Enforcement Chief should be to hold a meeting with the departing Enforcement Chief, enforcement management, and key analytical staff to address any enforcement issues. All Enforcement Division staff should work together as closely as possible to ensure the Interim Enforcement Chief has a full understanding of all significant enforcement cases.

Because of the close working relationship the CBA maintains with the AG's Office, It is extremely important that the Interim Enforcement Chief be introduced to the DAG Liaison. This will maintain a point of contact with the AG's Office, and ensure that enforcement matters proceed timely.

The Enforcement Chief has a joint Delegation of Authority (**Attachment 2**) with the Executive Officer, from the Director, Department of Consumer Affairs, related to conducting investigations, and it is important that it and any signature authority be transferred to the Interim Enforcement Chief in order to avoid any delay in enforcement action.

APPOINTING A NEW ENFORCEMENT CHIEF

"Enforcement Chief" is a working title for the person who has oversight responsibility of the Enforcement Division. The California civil service classification is that of a Career Executive Assignment (CEA) Level A. The distinction is important to note because the hiring process for a CEA position is much closer to that of the Executive Officer than that of the Assistant Executive Officer. As with the Executive Officer, advertising for the position may involve media (such as the Sacramento Bee) that reaches a wider audience than state civil service as the minimum qualifications for the position are broader and include those who formerly worked in civil service or as a Legislator.

The vacancy is posted to the CalHR website, and interested candidates submit a Statement of Qualifications and a Standard State Application. The Standard State Application and Statement of Qualifications are then scored and ranked, and the most qualified candidates are interviewed by the Executive Officer, and either the Assistant Executive Officer or a representative from the DCA. After the interviews, the candidates are again ranked. The rankings from the interview and the application review are then averaged, and subject to a fingerprint and Criminal Offender Record Information background check, the desired candidate is offered the position.

AFTER THE APPOINTMENT

Due to the confidential and time sensitive nature of the Enforcement Chief's duties, it is important that the Enforcement Chief become knowledgeable with their role and responsibilities as quickly as possible. In order to facilitate that process, the Enforcement Chief should schedule meetings with the Executive Officer and enforcement program management to address staffing, caseload, and applicable issues of the Enforcement Division. Finally, the Executive Officer should call a CBA staff meeting to introduce the new Enforcement Chief.

As the Enforcement Chief has frequent contact with the EAC, EPOC, and PROC, the incumbent should become familiar with the roles and responsibilities of those committees as soon as possible. Depending upon when the Enforcement Chief is appointed in relation to the next scheduled meeting for each committee, a roundtable meeting or conference call should be considered with the committee chairs for introduction purposes.

The Enforcement Chief should also schedule a meeting with the AG's Office and the DCA legal counsel as soon as possible, in order to minimize any delay in processing enforcement cases. Finally, all Delegations of Authority and Signature Authority need to be conferred to the new Enforcement Chief.

Much like the Executive Officer, the Enforcement Chief does not serve a structured probationary period. However, the Enforcement Chief is evaluated annually by the Executive Officer and is provided with an Individual Development Plan.

THE LICENSING CHIEF

The Licensing Chief is integral to the operation of the Licensing Division. The Licensing Chief directs the management and operations of the Examination, Initial Licensing, Renewal and Continuing Competency, and Practice Privilege Units. The Licensing Chief reports to the Assistant Executive Officer, and is responsible for approximately 45 staff.

ACTIONS TO TAKE IMMEDIATELY

The first action to take in the Licensing Division is, should senior management decide it is appropriate, to appoint an Interim Licensing Chief. There are three managers in the Licensing Division, and due to the current cross-training practices, any would be able to fulfill the role of Interim Chief until a permanent appointment can be made. The first task of the Interim Licensing Chief should be to hold a meeting with the departing Licensing Chief, licensing management, and key analytical staff to address any licensing issues.

APPOINTING A NEW LICENSING CHIEF

Much like with the Assistant Executive Officer, the term "Licensing Chief" is a working title. The Licensing Chief civil service classification is Staff Services Manager II. Because of the classification, the hiring process is much more defined. Interested candidates must either:

1. Be a current California civil service employee employed as a Staff Services Manager II, or appointed to a classification that can transfer to that classification pursuant to SPB Rule 430-433, OR
2. Reachable on an Employment Certification List pursuant to Government Code Section 19057.1

Once the Licensing Chief position becomes vacant, the position is advertised on the CalHR website. Interested applicants submit a Standard State Application and a resume. The applications are then screened, and only the most qualified are selected for interview. The interviews are conducted by the Executive Officer and the Assistant Executive Officer. Subsequent to a fingerprint and Criminal Offender Record Information background check, the desired candidate is offered the position.

AFTER THE APPOINTMENT

Immediately following the appointment, the Licensing Chief should schedule meetings with the Assistant Executive Officer and licensing program management to address staffing, caseload, and applicable issues of the Licensing Division. The Executive Officer should then call a meeting with all CBA staff to introduce the new Licensing Chief. Finally, all Delegations of Authority and Signature Authority need to be conferred to the new Licensing Chief.

As the Licensing Chief has frequent contact with the CBA Qualifications Committee, the incumbent should become familiar with the roles and responsibilities of that committee as soon as possible. Depending upon when the Licensing Chief is appointed in relation to the next scheduled meeting, a roundtable meeting or conference call should be considered with the committee chair for introduction purposes.

The Licensing Chief serves a one year probationary period, in which they are rated every four months by the Assistant Executive Officer. Assuming the incumbent passes the probationary period, they are given an evaluation annually in the form of an Individual Development Plan. That plan outlines the areas of possible growth for the employee, and identifies the areas of strength.

ADMINISTRATION DIVISION SUPERVISORY STAFF

The Administration Division is integral to the daily operation of the CBA, and is managed by the Assistant Executive Officer. The Administration Division has one Staff Services Manager I, who is in charge of the Administrative Services Unit and one Information Officer II, who is responsible for the legislative, regulatory, and website functions of the CBA. The Administrative Services Unit is comprised of 11 staff, which is a combination of analytical and technical classifications. The Information Officer II supervises three associate level staff.

ACTIONS TO TAKE IMMEDIATELY

There are two supervisors in the Administration Division each with unique areas of responsibility. This may create a problem with daily operations should either position remain vacant for an extended period of time. In this event, Senior Staff may either leave the position vacant, and perform the duties of the supervisor, or, in the case of the Staff Services Manager I, request an Associate Governmental Program Analyst fill the position out-of-class until an appointment can be made.

If Senior Management decides to make an out-of-class appointment, two tasks must be completed. First, if the out-of-class appointment is made for longer than two weeks, the CBA is required to notify the DCA Human Resource Office, as the employee is entitled to additional compensation. Second, delegations of authority and signature authority should be conferred to the Interim Manager, Administrative Services Unit until a permanent appointment is made.

Whether or not an out-of-class appointment is made, the Assistant Executive Officer should hold a staff meeting with all Administrative Services Unit staff, and

the Manager, Administrative Services Unit, if appropriate, to address any pending administrative issues.

APPOINTING AN ADMINISTRATIVE SERVICES UNIT SUPERVISOR

The Manager, Administrative Services Unit is classified as a Staff Services Manager I, and as such, interested candidates must either:

1. Be a current California civil service employee employed as a Staff Services Manager I, or appointed to a classification that can transfer to that classification pursuant to SPB Rule 430-433, OR
2. Be reachable on an Employment Certification List pursuant to Government Code Section 19057.1

Once the Manager, Administrative Services Unit position becomes vacant, the position is advertised on the CalHR website. Interested applicants submit a Standard State Application and a resume. The applications are then screened, and only the most qualified are selected for an interview. The interviews are conducted by the Executive Officer and the Assistant Executive Officer. Subsequent to a fingerprint and Criminal Offender Record Information background check, the desired candidate is offered the position.

APPOINTING AN INFORMATION OFFICER II

The Information and Planning Officer is classified as an Information Officer II, and as such, interested candidates must either:

1. Be a current California civil service employee employed as a Information Officer II, or appointed to a classification that can transfer to that classification pursuant to SPB Rule 430-433, OR
2. Be reachable on an Employment Certification List pursuant to Government Code Section 19057.1

Once the Information and Planning Officer position becomes vacant, the position is advertised on the CalHR website. Interested applicants submit a Standard State Application and a resume. The applications are then screened, and only the most qualified are selected for interview. The interviews are conducted by the Executive Officer and the Assistant Executive Officer. Subsequent to a fingerprint and Criminal Offender Record Information background check, the desired candidate is offered the position.

AFTER THE APPOINTMENT

Immediately following the appointment, the supervisor should schedule meetings with the Assistant Executive Officer and unit staff to address staffing, workload, and any time sensitive issues. The supervisor should be introduced at the next all-staff meeting. Finally, all Delegations of Authority and Signature Authority need to be conferred to the new supervisor.

The Manager, Administrative Services Unit has frequent contact with many employees of the DCA, so the incumbent should become familiar with the roles and responsibilities of those programs as soon as possible.

Both supervisors serve a one year probationary period, in which the incumbent is rated every four months by the Assistant Executive Officer. Assuming the incumbent passes the probationary period, they will be given an evaluation annually in the form of an Individual Development Plan. That plan outlines the areas of possible growth for the employee, and identifies the areas of strength.

ENFORCEMENT DIVISION SUPERVISORY STAFF

The Enforcement Division is responsible for overseeing the enforcement of laws and rules governing the practice of public accountancy, and is managed by the Enforcement Chief. There are five Supervisors in the Enforcement Division, three Staff Services Managers I and two Supervising Investigative Certified Public Accountants (Supervising ICPA). The Staff Services Managers I direct the Non-Technical Unit, Discipline and Probation Monitoring Unit, and the Criminal Offender Record Information (CORI) Unit of the Enforcement Division, and are responsible for 14 staff. Each Supervising ICPA is in charge of a Technical Investigation Unit, and are responsible for 7 Investigative CPAs (ICPA).

ACTIONS TO TAKE IMMEDIATELY

The actions to be taken if one of these positions were to become vacant differ; therefore they will be described separately:

- **Staff Services Manager I**
Much like the Manager, Administrative Services Unit, Senior Staff must first decide whether or not to appoint an employee to the vacant position out-of-class. If the position is expected to be vacant for a short period of time, this is probably not necessary, as there is other first line supervision in the Enforcement Division. However, if the position is expected to be vacant for an extended period of time, it may be advisable to appoint an Interim Supervisor.
- **Supervising ICPA**
Due to the technical nature of the duties the Supervising ICPA performs, it is advisable to appoint an ICPA as the Interim Supervisor. This will ensure there is no delay in the processing of enforcement cases with the AG's office, and other time sensitive tasks.

The first task of either the Interim Supervisor, if applicable, or the newly appointed Staff Services Manager I or Supervising ICPA, should be to hold a meeting with the departing supervisor, Enforcement Program management, and key analytical staff to address any enforcement issues. If an interim appointment has been made, it is important that any delegation of authority or signature authority be conferred to the Interim Supervisors until a permanent appointment is made.

APPOINTING A STAFF SERVICES MANAGER I

As a Staff Services Manager I, interested candidates must either:

1. Be a current California civil service employee employed as a Staff Services Manager I, or appointed to a classification that can transfer to that classification pursuant to SPB Rule 430-433, OR
2. Be reachable on an Employment Certification List pursuant to Government Code Section 19057.1

Once one of these positions becomes vacant, the position is advertised on the CalHR website. Interested applicants submit a Standard State Application and a resume. The applications are then screened, and only the most qualified are selected for an interview. The interviews are conducted by the Enforcement Chief and a Supervising Investigative CPA. Subsequent to the fingerprint and Criminal Offender Record Information background check, the desired candidate is offered the position.

As the Discipline and Probation Monitoring Unit Supervisor has frequent contact with the Peer Review Oversight Committee, the incumbent should become familiar with the role and responsibilities of that committee as soon as possible. Depending upon when the Discipline and Probation Monitoring Unit Supervisor is appointed in relation to the next scheduled meeting, a meeting or conference call with the committee chair should be scheduled for introductory purposes.

APPOINTING A SUPERVISING INVESTIGATIVE CPA

An Investigations Unit Supervisor is classified as a Supervising Investigative CPA, and as such, interested candidates must maintain an active CPA license, and either:

1. Be a current California civil service employee possessing a CPA license, requisite experience, and employed in a classification that can transfer to that classification pursuant to SPB Rule 430-433, OR
2. Be reachable on an Employment Certification List pursuant to Government Code Section 19057.1

Once an Investigations Unit Supervisor position becomes vacant, the position is advertised on the CalHR website. Interested applicants submit a Standard State Application and a resume. The applications are then screened, and only the most qualified are selected for an interview. The interviews are conducted by the Executive Officer and the Enforcement Chief. Subsequent to a fingerprint and Criminal Offender Record Information background check, the desired candidate is offered the position.

The Enforcement Chief should also schedule a meeting with the AG's Office and the DCA legal counsel as soon as possible, to discuss workload and priorities, in order to minimize any delay in processing enforcement cases.

AFTER THE APPOINTMENT

Immediately following the appointment of a supervisor, the new supervisor should schedule a meeting with the Enforcement Chief and the other Enforcement Program Supervisors to address staffing, caseload, and any immediate, time sensitive issues of their unit. The Enforcement Chief should then introduce the new supervisor to all staff at the next all-staff meeting. Finally, all Delegations of Authority and Signature Authority need to be conferred to the new supervisor.

As a Supervising Investigative CPA has frequent contact with the Enforcement Advisory Committee, the incumbent should become familiar with the roles and responsibilities of this committee as soon as possible. Depending upon when the Supervising Investigative CPA is appointed in relation to the next scheduled meeting, a roundtable meeting or conference call with the committee chair should be scheduled for introductory purposes.

Enforcement Program supervisors serve a one year probationary period, in which the incumbent is rated every four months by the Enforcement Chief. Assuming the incumbent passes the probationary period, the supervisor will be given an evaluation annually in the form of an Individual Development Plan. That plan outlines the areas of possible growth for the employee, and identifies the areas of strength.

LICENSING DIVISION SUPERVISORY STAFF

There are three supervisors in the Licensing Division. The three supervisors are responsible for leading and directing the operations of the Examination, Initial Licensing, Renewal and Continuing Competency, and Practice Privilege Units.

ACTIONS TO TAKE IMMEDIATELY

With the availability of other supervisors within the Licensing Division, it is not necessary to appoint an interim supervisor, unless multiple supervisory positions are concurrently vacant. If a single position is expected to remain vacant for an extended period of time, the other supervisors, and to some extent unit coordinators, should be able to continue daily operations until a permanent selection is made.

APPOINTING A NEW LICENSING SUPERVISOR

All three Licensing Supervisors are classified as Staff Services Manager I, and as such, interested candidates must either:

1. Be a current California civil service employee employed as a Staff Services Manager I, or appointed to a classification that can transfer to that classification pursuant to SPB Rule 430-433, OR
2. Be reachable on an Employment Certification List pursuant to Government Code Section 19057.1

Once a supervisor position becomes vacant, it is advertised on the CalHR website. Interested applicants submit a Standard State Application and a

resume. The applications are then screened, and only the most qualified are selected for an interview. The interviews are conducted by the Licensing Chief and the Assistant Executive Officer. Subsequent to a fingerprint and Criminal Offender Record Information background check, the desired candidate is offered the position.

AFTER THE APPOINTMENT

Immediately following the appointment of a new supervisor, a meeting should be scheduled with the Assistant Executive Officer, Licensing Chief and the other supervisors to address staffing, caseload, and any immediate, time sensitive issues of their unit. The Licensing Chief should then introduce the new supervisor to all staff at the next all-staff meeting. Finally, all Delegations of Authority and Signature Authority need to be conferred to the new supervisor.

As the Initial Licensing Unit supervisor has frequent contact with the Qualifications Committee, the incumbent should become familiar with the roles and responsibilities of that committee as soon as possible.

As the Practice Privilege Unit supervisor has frequent contact with the Mobility Stakeholder Group, the incumbent shall become familiar with the roles and responsibilities of that group as soon as possible.

Licensing Division supervisors serve a one year probationary period, in which they are rated every four months by the Licensing Chief. Assuming the incumbent passes the probationary period, they are given an evaluation annually in the form of an Individual Development Plan. That plan outlines the areas of possible growth for the employee, and identifies the areas of strength.

FUTURE LEADERSHIP

As important as the CBA Senior Staff are, this Succession Plan must also recognize that steps must be taken to prepare the next generation of Senior Staff. Realizing that it is often difficult to replace the institutional knowledge amassed over years spent at the CBA, current management has begun work to mitigate the potential loss. Changes include inviting supervisory staff to CBA meetings, promoting from within when appropriate, encouraging staff to take part in training when available, cross training supervisors and staff when possible, and ensuring that all supervisors attend the required management training.

In order to better prepare current staff for promotional opportunities, and to share experience gained as a supervisor, CBA management holds monthly Senior Staff and Managers meetings, in which issues facing supervisors may be aired and deliberated. This is an integral learning process for new and experienced management staff alike, as each manager brings a different perspective and experience

WHAT IS WORKFORCE PLANNING?

Workforce planning is a methodical process for ensuring the right number of people with the right skills will be available at the right time to perform needed

tasks. Workforce planning enables an organization to proactively plan for and address changes in strategic direction of the workforce. A dynamic and continuous process, workforce planning extends beyond leadership succession to encompass all of an organization's staffing and leadership endeavors related to recruitment, training, development, retention and organizational knowledge.

Recognition of the need to develop and maintain its human resources through workforce planning is but one element of the CBA's larger plan to achieve its mission of consumer protection. In fact, this agency's workforce planning roots can be traced back to the CBA 2010-2012 Strategic Plan developed by CBA members, management and staff. Below are specific goals in the 2016-2018 Strategic Plan that are at the heart of current workforce planning efforts.

ENFORCEMENT

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

LICENSING

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

CUSTOMER SERVICE

Deliver the highest level of customer service.

OUTREACH

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

ORGANIZATIONAL EFFECTIVENESS

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

The CBA has historically demonstrated its commitment to Workforce Planning by ensuring its organizational structure was built in such a manner to facilitate achieving its mission. In addition, it has proactively taken steps to ensure it had staff resources positioned in such a manner that "the right people are in the right place at the right time" to achieve goals and objectives. Some of the past actions CBA management has undertaken in these areas include the following.

ORGANIZATIONAL RESTRUCTURING

The Executive Office reorganized the Enforcement Program in 2014 to expand the Investigative CPA Unit to meet the increased work load and create a Discipline and Probation Monitoring Unit, in which analytical staff implements and monitors the decisions of the CBA regarding CPA licensees. These changes enabled the CBA to have more of the right people in the right place to achieve this agency's mandate of consumer protection mission.

The Licensing Division was reorganized five years ago to comply with program needs and State of California allocation guidelines related to manager/staff ratios. This led to the creation of an additional manager position, which

provides more promotional opportunities for staff, creates a larger pool of potential future leaders, and results in each CBA staff member having greater access to their respective manager. Licensing Division staff have made great strides regarding workforce and succession planning. Staff within each unit are developing written procedures or defined processes documentation. Great success has been made cross-training unit staff. During the fiscal year 2014/15, staff worked on merging various functions and having multiple staff trained on each task.

ICPA RECRUITMENT

The CBA continues to focus on Investigative CPAs (ICPAs) to ensure hiring and retention success. Success to date has been largely accomplished through the following strategic changes to the classification and the recruitment process.

- Creation of Pay Differential 347 that awards a retention bonus to ICPAs after they meet certain requirements;
- Restructure of ICPAs recruitment exam to offer it on a continual basis;
- Creating a plan and methodology to utilize ICPAs throughout California rather than a focused presence in Sacramento.

Senior management believes that ensuring the recruitment exam is given on a continual basis was vital to establishing and maintaining a list of qualified candidates for the ICPAs positions. In addition, locating ICPAs throughout California has expanded the recruitment pool.

MANAGEMENT PHILOSOPHY

Managers at the CBA employ an open door policy and all managers, up to and including the Executive Officer, are accessible to staff. Further, the CBA is a very flat organization, which increases manager access as issues arise. Staff recognition and appreciation is a foundational principal within the organization.

CBA management initiated a program to identify outstanding employees – The CBA Leadership Award of Excellence is presented annually at the September CBA meeting.

CBA EMPLOYEE SATISFACTION SURVEY

CBA management initiated an Employee Satisfaction Survey in 2011. The purpose of the survey is to get information directly from employees regarding what is working, and what is not working, here at the CBA, with a goal of understanding how management may better assist staff in their work. The survey is conducted every year, and individual survey responses are reviewed by Senior Staff, with an overview of survey results shared with all CBA management and staff. Management meets monthly and discusses ways to address employee feedback with implementation of responses occurring immediately.

THE CBA WORKFORCE

As are other state agencies, the CBA is facing the loss of experienced workers, and an attendant loss of institutional knowledge, due to its aging workforce and

increased competitive job opportunities with other government agencies. Current data indicates that approximately 27 percent of the CBA management and supervisory classifications and approximately 29 percent of the rank and file classifications are eligible for retirement within the next five years. Still, this situation compares favorably to potential staff losses due to retirements faced by many other state agencies.

It is believed that the current CBA Organization Chart (**Attachment 3**) reflects reasonable supervisory “span of control” for managers at this agency. Still, all of these managers are considered critical to achieving the mission and goals of the CBA. The following table providing information related to the “risk factor” tied to each manager position and senior analytical staff that the CBA stands to lose, all of which are considered mission critical to this agency. The table is intended to reflect a projection of staff loss that will likely occur during the next three-year window.

Manager / Supervisor Classifications	Number of Staff	Staff Over 50	Percent "at risk"
Executive Officer	1	-	-
Career Exec Assignment - A (Enforcement Chief)	1	-	-
Staff Services Manager I	4	2	50%
Staff Services Manager II (Licensing Chief)	1	-	-
Staff Services Manager III (Assistant Executive Officer)	1	-	-
Information Officer II	1	-	-
Supervising Investigative CPA	2	1	50%
Total	<u>11</u>	<u>3</u>	<u>27%</u>

Non-Managerial Classifications of Particular Need

Investigative CPA	14	8	57%
Staff Information Systems Analyst	1	-	-
Total	<u>15</u>	<u>8</u>	<u>53%</u>

Rank & File Classifications

Assistant Information Systems Analyst	1	-	-
Associate Information Systems Analyst	2	1	50%
Associate Governmental Program Analyst	23	3	13%
Associate Programmer Analyst	1	1	100%
Business Services Officer	1	-	-
Management Services Technician	1	-	-
Office Assistant	5	2	40%
Office Technician	15	5	33%
Program Technician II	0	-	-
Staff Services Analyst	20	8	40%
Total	<u>69</u>	<u>20</u>	<u>29%</u>

All Staff **95** **31** **33%**

Over the past year, the CBA experienced minimal erosion of its managerial workforce. During this period, the Enforcement Chief retired, and the Manager, Administrative Services Unit and the Information Officer accepted positions in other California State Departments.

KEY CBA STAFF

Throughout the preceding sections of this report, loss of key staff was identified by position and civil service classification. This was advantageous because, with multiple managers in the Licensing and Enforcement Division, there are a number of individuals performing supervisory duties tied to Staff Services Manager I responsibilities at the CBA. In addition, the widespread use of CBA senior analytical staff, most of which are in the Associate Governmental Program

Analyst (AGPA) civil service classification allows the CBA the opportunity to develop a pool of persons knowledgeable of CBA activities.

There are twenty-two associate (journey level) analysts performing similar analytical functions at the CBA, albeit in different program areas, with the only major departure in responsibilities tied to three associate analysts in the Information Technology Unit. Further, most of the divergent program areas are allocated more than one AGPA, so the “lead” nature of the senior analytical staff is a shared responsibility. This level of duplication ensures that program areas are not negatively impacted by the loss of a single AGPA, especially in light of CBA managers continued success in cross-training their staff.

WORKFORCE PLANNING STRATEGIES

The CBA continues to employ a number of established elements in its workforce planning to ensure it has a core cadre of talented and effective analytical staff employed in each of its organizational units. Outlined below are the primary strategies CBA managers use to ensure effective operations are not undermined by inadequate levels of key analytical staff.

KNOWLEDGE MANAGEMENT

Knowledge management is focused on identifying, capturing and structuring institutional knowledge to ensure this key information is available to the right people at the right time. Objective 7.2 in the 2016-2018 Strategic Plan focuses directly on the concept of knowledge management.

- It states, “Review, refresh, and post available procedure manuals to the intranet to increase operational efficiencies and access.”

The CBA employs a number of mechanisms to achieve effective knowledge management within the organization.

Information Capture

Numerous methodologies are employed at the CBA to ensure that information and processes are captured and “memorialized” to assist in passing along institutional knowledge to new employees, as well as assure that all employees perform diverse functions the same. Expanded utilization of desk manuals is one means by which management is capturing and passing information to successive staff members in its various program areas. Many workflow processes have been documented and this mechanism will continue to be utilized for passing along consistent information in the future. Uniformity of information and processes is additionally benefitted by continued expansion of documentation accessible to staff on the CBA Intranet and the CBA website.

Cross-Training Staff

CBA management is committed to cross-training staff within its organizational units to ensure that consumer protection and customer service is not negatively impacted by the departure or other absence of an individual staff member.

Cross-training staff has long been employed by CBA managers as a workforce planning strategy and will continue to be utilized to effect efficiencies and continuity of work processes at this agency.

Cross-training also has benefits for management. In 2011, the three first level managers in Licensing, after rising to their positions through the ranks of the unit they then managed, were rotated to oversee a new unit with which they were unfamiliar in order to ensure that these managers were familiar with multiple programs and had broad experience for possible future advancement. This option of manager rotation may be explored in the future should it become advantageous to do so.

STAFF & MANAGER DEVELOPMENT

Although not all analytical staff can advance to supervisory and management roles at the CBA as current management staff leave this agency, it is important for the state workforce as a whole that analytical staff be afforded training and experiences which prepare them to assume managerial roles throughout state government. To this end, CBA management fully supports and advocates the development of its staff resources so that each employee reaches his or her potential.

Training

All staff are encouraged to expand their knowledge, skills and abilities through training programs offered through the DCA Strategic Organization, Leadership & Individual Development Unit, or through coursework provided by other entities such as *CPS Human Resource Services*.

The CBA's recently expanded enforcement staff participated in the DCA Enforcement Academy and Council on Licensure, Enforcement and Regulation (CLEAR) training initiatives. These programs and academies provide focus on industry trends and techniques to improve consumer protection.

Staff are encouraged to improve their skills and participate in training to improve proficiency in the use of technology, workflow, and communications. DCA SOLID Training Center maintains a year round schedule of available classes in which staff and management can enroll and complete. In addition, DCA SOLID provides a comprehensive Analyst Certification Training (ACT) to improve the capabilities and skills of analytical staff or those wanting to promote to an analyst position.

CBA management also brings DCA-sponsored training classes on-site to its employees for staff development and team-building purposes. Courses like True Colors help staff understand how to acknowledge one another and communicate effectively.

The CBA this year added information on our intranet website for staff to gain access to ways to explore and pursue career advance. The page is titled, "Grow Your Career" and is designed as a resource - "a one stop shop" for career and

advancement information. Here you will find information on job opportunities, resume writing, interview tips, and training.

Individual Development Plan (IDP)

The IDP is an important staff workforce planning tool as it provides a process and mechanism for employees and their supervisors to formally plan, and agree on, the path to an employee's development. Through this process, an employee, in collaboration with their supervisor, prepares and initiates an action plan leading to increased use of talents and skills resulting in greater career satisfaction and employee retention. Supervisors encourage employees to identify training needs, develop their skills and competencies and prepare a written career plan. The IDP may relate not only to an employee's current assignment, but may reflect future career objectives as well.

IDPs are among the most useful workforce planning tools as they provide: a logical and structured framework for assessing the needs of both the individual and the organization; a method of identifying core group training for work units; an opportunity to review and schedule mandated training such as Ethics, Sexual Harassment Prevention, Supervisory, and Defensive Driver's Training; and, a method for organizing developmental experiences instead of committing both time and money on training and development which may not be of future benefit to departmental or employee goals.

ORGANIZATIONAL MANAGEMENT

CBA management has established processes and deliberations that will continue to be employed related to filling vacant positions as they arise. Key to this process is a discussion that takes place at Senior Staff meetings with the Executive Officer, the Assistant Executive Officer, and the Enforcement Chief. Each vacant position is reviewed to determine if current workload demands throughout the CBA justify keeping the position in its present organizational unit, or if consideration should be given to moving the position to another unit based on organizational needs. The discussion also encompasses whether the vacant position is currently classified at a level that best meets the needs of the CBA, or whether it should possibly be reclassified at some other level (such as from a clerical position to an analyst, or vice-versa).

CREATE PROMOTIONAL OPPORTUNITIES

Management has created an organizational hierarchy that not only fosters efficient work processes throughout the CBA, but additionally provides opportunities for staff to advance within the organization as they demonstrate the ability to assume greater responsibilities.

INFORMATION TECHNOLOGY WORKFORCE & SUCCESSION PLANNING

Information systems (IS) and information technology (IT) exist to create efficiencies in the workplace for performing the business functions for the CBA. Further, expanded reliance on information technology services and solutions makes the CBA increasingly more dependent on staff providing these services,

and correspondingly at greater risk should this agency lose the services of IS staff.

Workforce and succession planning related to IS and IT presents a greater level of complexity than other program areas, largely because the immeasurable body of knowledge contained in the information technology arena. This expansive body of knowledge results in IS staff generally possessing compartmentalized specialization in specific areas, the outcome of which is that minimal redundancy of knowledge exists in small IT shops, such as at the CBA.

Each of the five CBA IS staff possess specialized functionality and have unique job responsibilities. The loss of any one of these staff would have a noticeable impact on specific processes at the CBA. Although it is not believed that any of the staff are preparing for an imminent departure from this agency, there is always the possibility of staff leaving for a promotion to a civil service IT classification higher than CBA information systems can support.

Due to the risk exposure in the IT arena, it is essential that management have specific workforce and succession activities “pre-planned,” which can be implemented immediately upon loss of any staff providing information services to this agency. Specialized workforce and succession planning for IT functionality is addressed separately in an Information Technology Services Management Plan that includes, among other things:

- Identification of individual IT staff members’ knowledge, skills and abilities (KSA) needed to perform each assigned task, the required KSA proficiency level, the criticality of the task, and the frequency each task must be performed.
- Creation of a “catalog” of all CBA IT tasks and functions and identification of the IT staff member having primary responsibility for each function.
- Assessment of each IT staff member’s KSAs, in terms of being able to undertake any and all tasks and functions identified in the CBA IT “functions catalog,” to determine any KSAs IT staff individually possess that are not being utilized to perform their assigned tasks and functions.
- Determination of IT tasks and functions for which adequate back-up does not presently exist, as well as a decision whether IT deficits can be addressed “in-house” through training, or whether a contract with an outside provider is needed to address IT coverage deficiencies.

Much of CBA management’s planning in this area is predicated on the “Effective Workforce and Succession Planning for California’s IT Workforce” Toolkit developed in 2014 by the California Department of Technology’s Office of Professional Development. The Toolkit is comprised of tools, templates, advice, case studies and recommended strategies to assist in the development of an IT Workforce and Succession Plan, including:

- Frequently Asked Questions
- Case Studies such as “The OTech Outreach Program”
- Succession Management Plan Instructions, Template, and Sample
- Skills Assessment Instructions, Template, and Sample
- Management Competencies Required by Position Instructions, Template, and Sample
- Technical Competencies Required by Position Instructions, Template, and Sample
- External Recruitment Strategy Instructions, Template, and Sample
- Potential Candidate Rating Sheet Instructions, Template, and Sample
- Training Plan Instructions, Template, and Sample
- Implementation Timeline Instructions, Template, and Sample
- Recruitment and Retention By Generation
- Upgrading Marketing Materials.

Management has used this Toolkit and other resources to develop and plan for potential IT shortages.

CONCLUSION

This CBA 2016-2018 Workforce and Succession Plan is not intended to be strict policy or procedure, it is simply a guide. With this Plan, and the steps that have been taken to secure institutional knowledge, the CBA is in a markedly better position to address the attrition of staff in years to come.



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CBA Item IV.F.
November 19, 2015

Discussion Regarding Possible Changes to the Delegation of Authority of the Executive Officer

Presented by: Patti Bowers, Executive Officer

Consumer Protection Objectives

The purpose of this agenda item is to provide the California Board of Accountancy (CBA) with proposed amendments to the delegation of authority of the Executive Officer (**Attachment 1**). This agenda item is necessary to ensure proper authority is delegated from the CBA to the Executive Officer to assist the CBA in continuing its mission of consumer protection.

Action(s) Needed

The CBA will be asked to approve the proposed amendments to the delegation of authority.

Background

Pursuant to Section 7 of the California Government Code (**Attachment 2**) and Sections 10 (**Attachment 3**) and 5103 (**Attachment 4**) of the Business and Professions Code, the CBA has delegated Patti Bowers, Executive Officer, with the authority to act on behalf of the CBA. Each year, the delegation is signed by the CBA President and remains in effect until revoked or superseded by a later delegation of authority.

Comments

The proposed amendments will allow Ms. Bowers to make non-substantive edits to various documents, which are identified following approval by the CBA. The changes include, date changes, grammar, punctuation, and spelling errors. Any changes that alter the intent or purpose of the document will not be permitted by the delegation of authority.

Fiscal/Economic Impact Considerations

There are no fiscal/economic impact considerations.

Recommendation

Staff recommend the CBA approve the proposed changes to the delegation of authority of the Executive Officer.

Discussion Regarding Possible Changes to the Delegation of Authority of the Executive Officer

Page 2 of 2

Attachments

1. Delegation of Authority: Responsibilities, Duties & Functions of Executive Officer
2. California Government Code Section 7
3. Business and Professions Code Section 10
4. Business and Professions Code Section 5103



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Attachment 1

DELEGATION OF AUTHORITY:

RESPONSIBILITIES, DUTIES & FUNCTIONS OF EXECUTIVE OFFICER

Pursuant to the provisions of Section 7 of the Government Code and Sections 10 and 5103 of the Business and Professions Code, Ms. Patti Bowers, Executive Officer, California Board of Accountancy (CBA), is hereby delegated the authority to act on behalf of the CBA in respect to all administrative and enforcement activities entered into by the CBA. Further, Ms. Bowers is hereby delegated the authority to act on behalf of the CBA in respect to making non-substantive changes to reports, minutes, and correspondence previously approved by the CBA. Ms. Bowers, as "Executive Officer," is specifically delegated authority to sign accusations and subpoena requests on behalf of the CBA, and is delegated other broad administrative authorities. This includes the power to receive and investigate complaints and to conduct investigations or hearings, with or without the filing of any complaint, and to obtain information and evidence relating to any matter involving the conduct of licensees.

The power and discretion conferred by law upon the CBA to receive and file accusations; issue notices of hearing, statements to respondent and statements of issues; receive and file notices of defense; determine the time and place of hearings under Section 11508 of the Government Code; issue subpoenas and subpoenas duces tecum; set and calendar cases for hearing, and perform other functions necessary to the efficient dispatch of the business of the CBA in connection with proceedings under the provisions of Section 11500 through 11528 of the Government Code, prior to the hearing of such proceedings; and the certification and delivery or mailing of copies of decisions under Section 11518 of said code are hereby delegated to and conferred upon Ms. Bowers.

The authority to issue any notice or order provided for in Article 5.1 of Chapter 1 of Division 3 of the Business and Professions Code and to act on behalf of the CBA, including, but not limited to, issuing a notice of denial of a practice privilege and an interim suspension order, subject to the right of the individual to timely appeal and request a hearing is hereby delegated to and conferred upon Ms. Bowers.

In addition, Ms. Bowers is specifically delegated authority to agree to and accept any stipulated settlement on behalf of the CBA that provides for an interim suspension order, suspending the license of a Certified Public Accountant/Public Accountant, pending the conclusion of a criminal action and administrative hearing concerning the licensee, or the revocation or surrender of a license.

Further, the power and discretion and duties conferred by law upon the CBA to receive and respond to a petition requesting the adoption, amendment, or repeal of a regulation as provided under Section 11340.7 of the Government Code are hereby delegated to and conferred upon Ms. Bowers.

Ms. Bowers is specifically delegated authority to make non-substantive edits to reports, minutes, and correspondence previously approved by the CBA. This includes, but is not limited to date changes, grammar, punctuation, and spelling errors, as well as formatting and contextual changes that do not alter the intent or purpose of the report or correspondence.

Nothing herein prohibits Ms. Bowers from delegating her authority to subordinates.

This delegation of authority revokes any prior delegation of authority issued regarding the above matter and shall remain in effect until revoked or superseded by a later delegation of authority.

Executed this ____ day of November, 2015 in Sacramento, California.

Jose A. Campos, CPA
CBA President

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**California Government Code Section 7****Attachment 2****7.**

Whenever a power is granted to, or a duty is imposed upon, a public officer, the power may be exercised or the duty may be performed by a deputy of the officer or by a person authorized, pursuant to law, by the officer, unless this code expressly provides otherwise.

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**Business and Professions Code Section 10****Attachment 3****10.**

Whenever, by the provisions of this code, a power is granted to a public officer or a duty imposed upon such an officer, the power may be exercised or duty performed by a deputy of the officer or by a person authorized pursuant to law by the officer, unless it is expressly otherwise provided.

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**Business and Professions Code Section 5103****Attachment 4****5103.**

(a) Notwithstanding any other provision of law, the board may inquire into any alleged violation of this chapter or any other state or federal law, regulation, or rule relevant to the practice of accountancy.

(b) The board, or its executive officer pursuant to a delegation of authority from the board, is authorized to perform the following functions:

(1) To receive and investigate complaints and to conduct investigations or hearings, with or without the filing of any complaint, and to obtain information and evidence relating to any matter involving the conduct of licensees, as directed by the board, or as directed by the executive officer pursuant to a delegation of authority from the board.

(2) To receive and investigate complaints and to conduct investigations or hearings, with or without the filing of any complaint, and to obtain information and evidence relating to any matter involving any violation or alleged violation of this chapter by licensees, as directed by the board, or as directed by the executive officer pursuant to a delegation of authority from the board.



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CBA Item V.A.2.
November 19, 2015

Approval of the 2016 Enforcement Advisory Committee Meeting Dates

Presented by: Joseph Rosenbaum, CPA, Enforcement Advisory Committee Vice-Chair

Consumer Protection Objectives

The purpose of this agenda item is to present the California Board of Accountancy (CBA) with the proposed 2016 meeting dates for the Enforcement Advisory Committee (EAC). This agenda item is a necessary part of the CBA's normal course of business, and as such, it will assist the CBA in continuing its mission of consumer protection as mandated by statute in Business and Professions Code section 5000.1.

Action(s) Needed

The EAC is requesting the CBA approve the 2016 meeting dates.

Background

The 2016 CBA meeting dates are as follows:

- January 21-22, 2016 – Southern California
- March 17-18, 2016 – Northern California
- May 19-20, 2016 – Southern California
- July 21, 2016 – Northern California
- September 15-16, 2016 – Southern California
- November 17-18, 2016 – Northern California

Comments

At its October 22, 2015 meeting, the EAC adopted the following meeting dates for 2016:

- January 28, 2016 – Northern California
- May 5, 2016 – Southern California
- July 7, 2016 – Northern California
- October 20, 2016 – Southern California
- December 8, 2016 – Southern California

Fiscal/Economic Impact Considerations

There are no fiscal/economic impact considerations.

Approval of the 2016 Enforcement Advisory Committee Meeting Dates

Page 2 of 2

Recommendation

Staff recommend approval of these meeting dates.

Attachment

2016 Year-at-a-Glance CBA Calendar.

CALIFORNIA BOARD OF ACCOUNTANCY (CBA)
2016 MEETING DATES/LOCATIONS CALENDAR
(CBA MEMBER COPY)

JANUARY 2016

S	M	T	W	Th	F	S
					1	2
3	4	5	6	7	8	9
10	11	12	13	14	15	16
17	18	19	SC 20	MSG 21	SC 22	23
24	25	26		NC 28	NC 29	30
31						

FEBRUARY 2016

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

MARCH 2016

S	M	T	W	Th	F	S
		1	2	3	4	5
6	7	8	9	10	11	12
13	14	15	16	NC 17	NC 18	19
20	21	22	23	24	25	26
27	28	29	30	31		

APRIL 2016

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

MAY 2016

S	M	T	W	Th	F	S
1	2	3	4	SC 5	SC 6	7
8	9	10	11	12	13	14
15	16	17	18	19	SC 20	21
22	23	24	25	26	27	28
29	30	31				

JUNE 2016

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

JULY 2016

S	M	T	W	Th	F	S
					1	2
3	4	5	6	NC 7	8	9
10	11	12	13	14	15	16
17	18	19	20	21	22	23
24	25	26	27	NC 28	29	30
31						

AUGUST 2016

S	M	T	W	Th	F	S
	1	2	3	4	5	6
7	8	9	10	11	12	13
14	15	16	17	18	NC 19	20
21	22	23	24	25	26	27
28	29	30	31			

SEPTEMBER 2016

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

OCTOBER 2016

S	M	T	W	Th	F	S
						1
2	3	4	5	6	7	8
9	10	11	12	13	14	15
16	17	18	NC 19	SC 20	21	22
23	24	25	26	27	28	29
30	31					

NOVEMBER 2016

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

DECEMBER 2016

S	M	T	W	Th	F	S
				1	2	3
4	5	6	7	SC 8	SC 9	10
11	12	13	14	15	16	17
18	19	20	21	22	23	24
25	26	27	28	29	30	31

GENERAL LOCATION
NC-NORTHERN CALIFORNIA
SC-SOUTHERN CALIFORNIA

	CBA OFFICE CLOSED
	CBA MEETING
	EAC MEETING
	PROC MEETING
	QC MEETING
	MSG MEETING

**California Board of Accountancy
Enforcement Activity Report**
Report as of September 30, 2015

CBA Item VI.A.
November 19, 2015

Complaints

Complaints/Records of Convictions	FY 2013/14	FY 2014/15	FY 2015/16 as of Sep. 30
Received	3,255	2,702	641
<i>Internal</i>	2,861	2,248	498
<i>Internal – Peer Review¹</i>	1,892	449	85
<i>Internal – All Other</i>	969	1,799	413
<i>External</i>	394	454	143
Assigned for Investigation	2,969	2,007	502
Closed – No Action	289	713	140
Average Days from Intake to Closure or Assignment for Investigation	4	4	4
Pending	0	0	2
Average Age of Pending Complaints (days)	0	0	0

¹ Peer Review internal complaints typically include investigation of failed peer review reports, failure to comply with peer review citations, filing an incorrect PR-1, or renewing a license without undergoing a peer review when a peer review is required. For FY 2013-14, these complaints included failures to respond during the initial peer review phase-in period (July 1, 2011 to July 1, 2013).

- The California Board of Accountancy (CBA) has received 641 complaints since the beginning of the new fiscal year. Seventy-eight percent of these complaints are internal referrals.
- The top internal complaint continues to be conviction of a crime. The top external complaint is tax-related.

California Board of Accountancy Enforcement Activity Report

Report as of September 30, 2015

Investigations

Investigations	FY 2013/14	FY 2014/15	FY 2015/16 as of Sep. 30
Assigned	2,969	1,953	502
<i>Internal</i>	2,628	1,579	372
<i>Internal – Peer Review¹</i>	1,888	439	81
<i>Internal – All Other</i>	740	1,140	291
<i>External</i>	341	374	130
Closed	2,669	1,773	434
Average Days to Close	74	167	183
Total Investigations Pending	825	1,081	1,206
<i>< 18 Months</i>	774	973	1,064
<i>18-24 Months</i>	42	69	94
<i>> 24 Months</i>	9	39	48
Average Age of Open Cases (days)	202	222	227
Median Age of Open Cases (days)	153	126	170

¹ For FY 2013-14, these investigations included failures to respond to multiple CBA requests to file the required PR-1 as part of the initial peer review phase-in period that occurred between July 1, 2011 and July 1, 2013.

Chart A on Page 7 illustrates the percentage of open cases by length of time.

- The CBA has closed 434 assigned investigations since the beginning of the fiscal year.
- As has been reported at several meetings, the number of cases pending between 18-24 months has increased continuously. Presently, the inventory for this category sits at 94 cases. Management is working with staff to aggressively address these cases to minimize the number of cases that will roll over into the 24 months or older category.
- Since the last report staff completed investigations on 13 cases that were 24 months or older.
- Presently, there are 48 investigations, including 25 carried over from the last report, that have been pending over 24 months. These cases are generally the most complex investigations requiring additional time to resolve. The status of the investigations are as follows:

California Board of Accountancy Enforcement Activity Report

Report as of September 30, 2015

- One case had an investigative hearing scheduled for October 22, 2015.
- Two cases have been referred for disciplinary action.
- Eleven cases have investigative reports completed, with one recommended for a citation and fine.
- One case has a citation and fine being prepared.
- One case has a pre-citation response under review.
- Five cases will be closed as of the next report.
- 27 investigations are on-going.

Discipline

Attorney General Referrals	FY 2013/14	FY 2014/15	FY 2015/16 as of Sep. 30
Referrals	74	97	28
Accusations Filed	34	47	18
Statements of Issues Filed	8	9	0
Petitions for Revocation of Probation Filed	2	0	2
Closed	31	63	26
<i>Via Stipulated Settlement</i>	21	55	18
<i>Via Proposed Decision</i>	4	2	0
<i>Via Default Decision</i>	6	6	8
Discipline Pending	95	119	116
<i>< 18 Months</i>	82	110	109
<i>18-24 Months</i>	10	4	4
<i>> 24 Months</i>	3	5	3

Chart B on Page 7 illustrates the percentage of cases pending at the AG's Office by length of time.

- There are three cases pending at the Attorney General's (AG) Office for more than 24 months, all of which have been carried over from the last report. The current status of the cases are as follows:
 - A writ was filed with the California Superior Court in August 2012 following adoption of a proposed decision and denial of a Petition for Reconsideration in July 2012. A decision was issued on August 28, 2014 denying the writ of mandate. The stay previously issued was dissolved and the CBA's decision revoking the Petitioner's license became effective. The Petitioner immediately filed a Notice of Appeal with the Appellate Court seeking a stay of the decision.

California Board of Accountancy Enforcement Activity Report

Report as of September 30, 2015

The motion requesting a trial was denied at a hearing on December 12, 2014. A ruling from the Court of Appeals is pending.

- One case has a settlement conference set for November 30, 2015.
- One case has a hearing date set for May 2, 2016.

Citations and Fines

Citations	FY 2013/14	FY 2014/15	FY 2015/16 as of Sep. 30
Total Citations Issued	1,522 ¹	348	81
Total Fines Assessed	\$399,020	\$119,387	\$36,050
Fines Average	\$702	\$343	\$445
Average number of days from receipt of a complaint to issuance of a citation	33	142	194
Top 3 Violations Resulting in Citation			
1:	Response to CBA Inquiry (Reg 52)	CE Basic Requirements (Reg 87)	Fingerprinting & Disclosure (Reg 37.5)
2:	CE Basic Requirements (Reg 87)	Response to CBA Inquiry (Reg 52)	Response to CBA Inquiry (Reg 52)
3:	Name of Firm (BPC 5060)	Name of Firm (BPC 5060)	CE Basic Requirements (Reg 87)

¹ For FY 2013-14, 1,481 citations were issued for failure to respond to multiple CBA requests to file the required PR-1 as part of the initial peer review phase-in period that occurred between July 1, 2011 and July 1, 2013.

- As noted in previous reports, the current year average for number of days to issue a citation is higher than the 2013-14 fiscal year due to the high volume and efficiency with which Peer Review (Failure to Respond) citations were issued.
- The fine amount assessed varies from \$100 to \$5,000 and is determined on a case-by-case basis. Factors that may increase or decrease the fine amount include aggravating or mitigating circumstances, and length of time the violation existed.
- Violation of Fingerprinting and Disclosures Requirement, CBA Regulations section 37.5, is currently the most common reason for issuance of a citation.

California Board of Accountancy Enforcement Activity Report

Report as of September 30, 2015

Probation Monitoring

Monitoring Activities	FY 2015/16
Number of Licensees on Probation as of Last Report	103
New Probationers	0
Total Number of Probationers	103
Out-of-State Probationers	9
Probation Orientations Held since Last Report	5

Criminal Offender Record Information (CORI)

CORI Fingerprints ¹	FY 2014/15	FY 2015/16
Notification Letters Sent	19,715	4,723
CORI Compliances Received	11,971	3,516
Non-Compliance Notifications Sent (Audit)	742	221

CORI Enforcement Cases	FY 2014/15	FY 2015/16
Received	624	177
Assigned for Investigation	185	63
Closed – No Action	439	114
Non-Compliance Citations and Fines Issued	45	36
Referred to the Attorney General's Office	14	8

¹ CORI-related activities that occurred in FY 2013/14 were previously reflected on the Licensing Activity Report.

- Effective January 1, 2014, all licensees renewing their license in active status are required to have fingerprints on file for the purpose of conducting a state and federal criminal offender record information background check.
- The fingerprint compliance rate has increased from 61 percent for fiscal year 2014-15 to 74 percent for the first quarter of the current fiscal year.

California Board of Accountancy Enforcement Activity Report

Report as of September 30, 2015

Mobility

Enforcement Aspects of Mobility	FY 2014/15	FY 2015/16
Pre-Notification Forms Received	2	0
Cessation Event Forms Received	0	0
SEC Discipline Identified	27	22
PCAOB Discipline Identified	21	9
Out-of-State Accounting Firm Registrants That Reported Other Discipline	14	2
Complaints Against Practice Privilege Holders	11	3

Effective July 1, 2013, the CBA implemented a no notice, no fee practice privilege model in California. This table depicts the enforcement aspects of mobility, including the receipt and investigation of Practice Privilege Pre-Notification Forms and Notification of Cessation Event Forms.

- The complaints against practice privilege holders include practice without permit, discipline by other states/governmental agencies, and practice complaints.
- Staff sends letters to all CPAs who were disciplined by either the Securities and Exchange Commission or the Public Company Accounting Oversight Board to inform them that they must seek CBA authorization prior to practicing in California.

Division Highlights and Future Considerations

- The Discipline and Probation Monitoring Unit is recruiting to fill an Associate Governmental Program Analyst position.
- The Non-Technical Unit is recruiting to fill an Associate Governmental Program Analyst position.

**California Board of Accountancy
Enforcement Activity Report**
Report as of September 30, 2015

Chart A – Open Investigations as of September 30, 2015

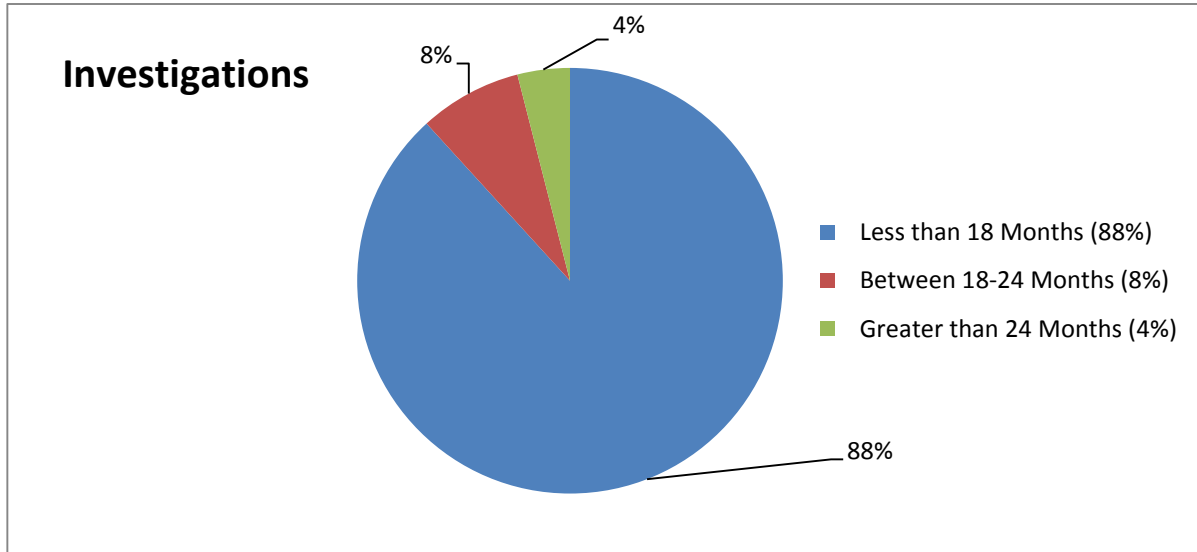
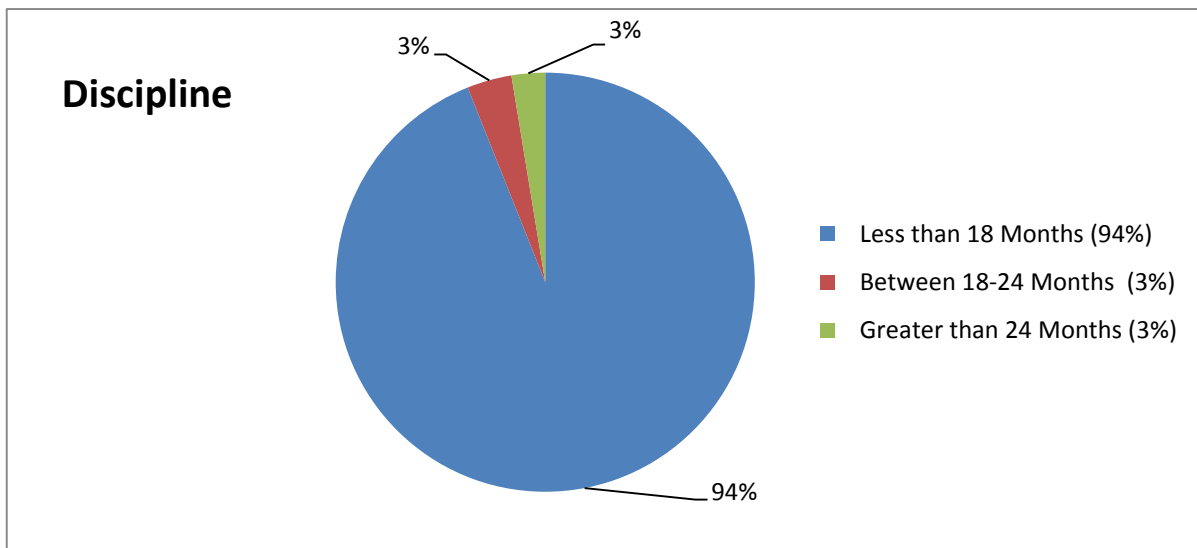


Chart B – Discipline Pending at the Attorney General Office as of September 30, 2015





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CBA Item VI.B.
November 19, 2015

Method of Mailing and Service of Notice When Contacting Licensees and Applicants Regarding CBA Licensing and Enforcement Matters

Presented by: Dominic Franzella, Chief, Enforcement Division

Consumer Protection Objectives

This agenda item provides the California Board of Accountancy (CBA) with information regarding the method of service when contacting licensees and applicants, and relates to the CBA's normal course of business, and as such, it will assist the CBA in continuing its mission of consumer protection as mandated by statute in Business and Professions Code section 5000.1.

Action(s) Needed

No specific action is required on this agenda item.

Background

The genesis of this request is a CBA member's inquiry related to better understanding the method of service used by staff when contacting licensees and applicants for licensure.

Comments

The primary method for contacting licensees and applicants regarding CBA-related matters is via first-class mail.¹ When contacting licensees, staff use the address of record licensees have on file with the CBA. When contacting applicants for licensure, staff use the address included on the application.

CBA Regulations section 3 requires licensees to update with the CBA any change in their address of record within 30 days after the change.² Licensees are notified about this requirement in the *License Renewal Handbook* and in the instructions that accompany the application for license renewal.

To update an address of record, licensees must submit such request in writing and it must be signed. The CBA maintains an address change form on its website to assist licensees in complying with their notification of change of address requirements, though the CBA will accept any written form of notification provided it is signed. Additionally,

¹ California Evidence Code section 641 states, "A letter correctly addressed and properly mailed is presumed to have been received in the ordinary course of mail."

² Business and Professions Code section 136, which is a general section applicable to all board and bureaus, also requires notification of an address change within 30 days.

Method of Mailing and Service of Notice When Contacting Licensees and Applicants Regarding CBA Licensing and Enforcement Matters

Page 2 of 3

the CBA also provides licensees the opportunity to update their address at the time of license renewal application. A space is provided on the remittance portion of the application.

As for applicants, there is no specific requirement that they maintain a current address of record. As part of the informational material on the CBA website, specifically in the *CPA Licensing Applicant Handbook*, the CBA informs applicants to keep a current address on file with the CBA during the processing of the application, and that failure to do so could result in delays in the processing of the application.

There are occasions when the staff also employ the use of certified mail, in addition to mailing the documents first-class mail, during the course of its activities. Examples of activities where the staff use certified mail include:

- Notifying licensees of a final license renewal deficiency that could lead to the referral to the Enforcement Division or the abandonment of an application³
- Notifying licensees that failing to respond to a CBA inquiry may or will result in an enforcement action
- Notifications that a license may be canceled for failure to renew
- Issuance of a citation

In addition to the staff contacting licensees and applicants, the Office of the Attorney General (AG's Office) may also have the need to make contact. This need arises when handling matters of enforcement actions. The California Administrative Procedure Act (Government Code (GC) section 11370 et. seq.) sets forth requirements for providing notice of administrative actions.

GC section 11420 states:

Service of a writing on, or giving of a notice to, a person in a procedure provided in this chapter is subject to the following provisions:

(a) The writing or notice shall be delivered personally or sent by mail or other means to the person at the person's last known address or, if the person is a party with an attorney or other authorized representative of record in the proceeding, to the party's attorney or other authorized representative. If a party is required by statute or regulation to maintain an address with an agency, the party's last known address is the address maintained with the agency.

(b) Unless a provision specifies the form of mail, service or notice by mail may be by first class mail, registered mail, or certified mail, by mail delivery service, by facsimile transmission if complete and without error, or by other electronic means as provided by regulation, in the discretion of the sender.

GC section 11505(c) states:

³ CBA Regulations section 71(c) allows the CBA to abandon an application for license, permit, certificate, or registration, along with the remitted fee, if the applicant (which includes applications for renewal) fails to complete the application within two years of the original submission or one year from the date of notification by the CBA of any deficiency in the application.

Method of Mailing and Service of Notice When Contacting Licensees and Applicants Regarding CBA Licensing and Enforcement Matters

Page 3 of 3

The accusation ... all accompanying information may be sent to the respondent by any means selected by the agency. But no order adversely affecting the rights of the respondent shall be made by the agency in any case unless the respondent shall have been served personally or by registered mail as provided herein, or shall have filed a notice of defense, or, as applicable, notice of participation, or otherwise appeared. Service may be proved in the manner authorized in civil actions. Service by registered mail shall be effective if a statute or agency rule requires the respondent to file the respondent's address with the agency and to notify the agency of any change, and if a registered letter containing the accusation ... accompanying material is mailed, addressed to the respondent at the latest address on file with the agency.

In this instance, the AG's Office is acting on behalf of the agency. As there is a general Business and Professions Code section 136 that requires licensees to maintain an address of record and CBA Regulations section 3 requires the update of this address, the AG's Office is allowed to send the materials via registered mail.⁴ When sending the materials, the AG's Office does so via certified and first-class mail.

The pleading (accusation) mailed to licensees includes a statement to respondent, two blank copies of a notice of defense, information regarding a request for discovery, and the discovery statutes. Licensees or applicants have 15 days to file a notice of defense. Failure to do so can result in the matter becoming final (upon CBA action) via a default decision.⁵

Staff and the AG's Office track the 15-day period. After the period has lapsed, and additional time provided for receipt of any mailed materials, staff will request that the AG's Office prepare a default decision for CBA consideration and possible action.

Staff work diligently with licensees and applicants to ensure compliance with the requirements are met. The overall strategy is one of working together collaboratively to assist licensees and applicants. Staff work to provide an appropriate opportunity to correct violations and sufficient time to respond to requests prior to moving forward with any possible enforcement action.

Fiscal/Economic Impact Considerations

There are no fiscal/economic impact considerations.

Recommendation

Staff do not have a recommendation on this agenda item.

Attachment

None.

⁴ GC section 8311 provides that "Wherever any notice or other communication is required by any law to be mailed by registered mail ... the mailing of such notice or other communication by certified mail shall be deemed to be a sufficient compliance with the requirements of such law."

⁵ Seven days after service of a default decision and before the decision becomes final, the licensee or applicant may request that the default decision be vacated and a hearing be set to contest the allegations.

**California Board of Accountancy
Licensing Activity Report
As of September 30, 2015**

Licensee Population

Type of License	FY 2013/14	FY 2014/15	FY 2015/16 As of Sept 30
CPA	90,912	91,530	92,088
PA	85	64	64
Partnership	1,460	1,490	1,495
Corporation	3,995	4,179	4,220

Contact with CBA Stakeholders

Telephone Calls Received	FY 2013/14	FY 2014/15	FY 2015/16 As of Sept 30
Examination Unit	18,815	22,809	4,872
Initial Licensing Unit	27,889	22,993	6,229
License Renewal and Continuing Competency Unit	25,172	26,449	6,604
Practice Privilege Unit	663	468	112

Emails Received	FY 2013/14	FY 2014/15	FY 2015/16 As of Sept 30
Examination Unit	10,867	13,121	3,866
Initial Licensing Unit	14,098	14,588	4,267
License Renewal and Continuing Competency Unit	14,488	19,258	4,711
Practice Privilege Unit	381	397	157

**California Board of Accountancy
Licensing Activity Report
As of September 30, 2015**

Examination Unit

- The Examination Unit is currently recruiting for two Seasonal Clerk positions.
- The Examination Unit is currently seeking individuals to participate in site visits and as secret shoppers at Prometric testing centers. Staff sent interest letters to all CBA and committee members, resulting in a great deal of interest. Staff anticipate visits to occur in the coming months.

CPA Examination Applications	FY 2013/14	FY 2014/15	FY 2015/16 As of Sept 30
First-Time Sitter			
Total Received	6,661	7,762	2,119
Total Approved	6,720	6,451	2,632
Average Days to Process	20	29	30
Repeat Sitter			
Total Received	17,044	17,802	4,633
Total Approved	17,455	15,791	4,639
Average Days to Process	6	9	8

CPA Examination Special Requests	FY 2013/14	FY 2014/15	FY 2015/16 As of Sept 30
Conditional Credit and Notice to Schedule Extensions*			
Total Received	173	181	33
Total Completed	176	167	40
Average Days to Process	18	30	29
Educational Qualification Appeals**			
Total Received	50	29	6
Total Completed	52	27	6
Average Days to Process	22	21	16
Special Accommodation Requests**			
Total Received	172	194	45
Total Completed	178	182	59
Average Days to Process	12	18	17

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

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

**California Board of Accountancy
Licensing Activity Report
As of September 30, 2015**

Initial Licensing Unit

- The Initial Licensing Unit (ILU) recently filled its four Program Technician II vacancies. It is currently recruiting for one Seasonal Clerk position.
- Since closure of the attest study survey on October 31, 2015, preliminary data shows there were 10,162 total responses received. CPS HR Consulting will provide the CBA with a comprehensive report of the study in early 2016.
- ILU is continuing its outreach efforts regarding the upcoming expiration to the extension of Pathway 1 and Pathway 2 for CPA licensure on December 31, 2015. Staff will send final “30-day” reminder letters to applicants who passed the Uniform CPA Examination prior to December 31, 2013 notifying them of the upcoming deadline for document submission and providing them information regarding the current education requirements.

Individual License Applications	FY 2013/14	FY 2014/15	FY 2015/16 As of Sept 30
Certified Public Accountant			
Total Received	4,600	3,158	965
Total Approved	4,906	2,682	708
Average Days to Process	24	24	24
Method of Licensure			
Pathway 1 – attest	522	182	20
Pathway 1 – general	824	272	58
Pathway 2 – attest	928	320	53
Pathway 2 – general	2,560	921	177
New Requirements – attest*	17	245	105
New Requirements – general*	55	742	295

* Effective January 1, 2014, new educational requirements for CPA licensure took effect. Applicants who passed the Uniform CPA Examination prior to December 31, 2013, may continue to apply under previous Pathways 1 and 2 until December 31, 2015.

**California Board of Accountancy
Licensing Activity Report
As of September 30, 2015**

Certification Requests	FY 2013/14	FY 2014/15	FY 2015/16 As of Sept 30
Total Received	1,039	1,051	252
Total Processed	972	1,042	235
Average Days to Process	22	20	20

Firm License Applications	FY 2013/14	FY 2014/15	FY 2015/16 As of Sept 30
Corporation			
Total Received	210	272	65
Total Approved	200	208	59
Average Days to Process	17	16	19
Partnership			
Total Received	91	92	25
Total Approved	92	76	18
Average Days to Process	17	16	19
Fictitious Name Permit			
Total Received	183	120	27
Total Approved	139	87	22
Average Days to Process	17	16	19

**California Board of Accountancy
Licensing Activity Report
As of September 30, 2015**

License Renewal and Continuing Competency Unit

- The License Renewal and Continuing Competency (RCC) Unit is in initial stages of developing processes for tracking sole proprietorships and identifying any necessary regulatory language that may be needed to codify the change. This will be brought before the CBA in early 2016.
- The RCC Unit recently filled its permanent intermittent Program Technician II and Seasonal Clerk position vacancies. It is currently recruiting to fill one limited-term Associate Governmental Program Analyst position.

License Renewal	FY 2013/14	FY 2014/15	FY 2015/16 As of Sept 30
Total Licenses Renewed			
Certified Public Accountant	39,164	40,122	10,538
Public Accountant	12	14	2
Corporation	1,526	1,500	240
Partnership	572	525	147
License Renewal Verification			
CPA/PA Applications Reviewed	39,605	34,199	9,323
Deficient Applications Identified	5,659	9,725	2,390
Compliance Responses Received	4,128	8,821	2,708
Outstanding Deficiencies	1,510	1,848	1,289
Top Three Renewal Deficiencies			
1:	Peer Review Form ¹	Peer Review Form ¹	Peer Review Form ¹
2:	Renewal Application ²	Renewal Application ²	Renewal Application ²
3:	Ethics CE ³	Ethics CE ³	Ethics CE ³

-- Previously, license renewal applications that were identified as deficient due to more than one reason were categorized and reported as a "multiple" deficiency. Beginning January 1, 2014 this category was expanded to provide a more accurate accounting of each deficiency type identified.

1 – Failure to submit/incomplete/failed on behalf of firm – peer review reporting form.

2 – Failure to submit/incomplete license renewal application.

3 – Failure to complete four hours of ethics continuing education.

**California Board of Accountancy
Licensing Activity Report
As of September 30, 2015**

License Renewal Related Activities	FY 2013/14	FY 2014/15	FY 2015/16 As of Sept 30
CE Audits			
Licensees Selected for Audit	855	900	225
Outstanding Audits	508	95	182
Compliance Letters Sent	347	1,297	135
Enforcement Referrals*			
	582	998	193
Retired Status**			
Applications Received	--	671	109
Applications Failing to Meet Minimum Qualifications	--	11	1
Applications Approved	--	660	99

* Enforcement Referrals include license renewal-related deficiencies such as CE, fingerprints, and peer review.

** Effective July 1, 2014 licensees may apply for retired status.

Practice Privilege Unit

- The Practice Privilege Unit is currently recruiting for an Associate Governmental Program Analyst position.

Practice Privilege	FY 2013/14	FY 2014/15	FY 2015/16 As of Sept 30
Out-of-State Accounting Firm Registrations			
Approved	209	135	30
Pending Review	0	0	0
Pending Correction of Deficiencies	5	0	0
Enforcement Referrals	11	15	2



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CBA Item IX.A.
November 19, 2015

Regulation Hearing Regarding Title 16, California Code of Regulations Section 42 – Peer Review Reporting

Presented by: Matthew Stanley, Information and Planning Officer

Consumer Protection Objectives

The purpose of this agenda item is to provide information from the rulemaking file for the use of the California Board of Accountancy (CBA) during its regulatory hearing, which the legislature has established to provide the public the opportunity to comment on proposed regulations.

Action(s) Needed

No specific action is required on this agenda item.

Background

Business and Professions Code section 5076(c), authorizes the CBA to adopt regulations as necessary to implement, interpret, and make specific the peer review requirements in this section, including, but not limited to, regulations specifying the requirements for board recognition of a peer review program, standards for administering a peer review, extensions of time for fulfilling the peer review requirement, exclusions from the peer review program, and document submission.

In October 2014, the American Institute of CPAs (AICPA) issued Statement on Standards for Accounting and Review Services No. 21 (SSARS 21), which supersedes all but one of the prior standards. SSARS 21 clarifies and revises the standards for reviews, compilations, and engagements to prepare financial statements. As a result of SSARS 21, compilations where no report is issued no longer exists and is now replaced by preparation engagements (with or without disclaimer reports).

At its May 28, 2015 meeting, the CBA directed staff to work with legal counsel to finalize regulatory language and initiate the rulemaking process to amend CBA Regulations section 42 to replace compilations where no report is issued with preparation engagements in the peer review exclusions.

The Notice of Proposed Action was filed with the Office of Administrative Law (OAL) on September 22, 2015 and published on October 2, 2015, thus initiating the required 45-day public comment period. November 16, 2015 marks the end of the public comment

Regulation Hearing Regarding Title 16, California Code of Regulations

Section 42 – Peer Review Reporting

Page 2 of 2

period, and on November 19, 2015, during the CBA meeting, a public hearing will be conducted on the proposed action.

Comments

The following attachments will aid in your preparation for the hearing:

- Notice of Proposed Action (**Attachment 1**)
- Proposed Regulatory Language (**Attachment 2**)
- California Board of Accountancy - Initial Statement of Reasons (**Attachment 3**)

During the public hearing the CBA may hear oral testimony and receive written comments. If any changes are made as a result of these comments, a 15-day Notice of Modified Text will be required. No comments have been received as of the date of the CBA mail out; any comments received after the CBA mail out will be supplied to the CBA at the meeting. The CBA can discuss any comments and may act under **CBA Agenda Item IX.B** to adopt the proposed regulations. Prior to submitting the final regulation package to OAL, staff will draft responses to any comments and prepare the Final Statement of Reasons for distribution to all persons who provided comments.

Fiscal/Economic Impact Considerations

This proposed regulatory amendment will not have a significant adverse economic impact on businesses. It will not create or eliminate jobs within the State of California because it only clarifies that firms, which as their highest level of work, perform only preparation engagements (with or without disclaimer reports) are excluded from the peer review requirement and is not of sufficient magnitude to affect the expansion of jobs within the State of California.

Recommendation

Staff does not have a recommendation on this agenda item.

Attachments

1. Notice of Proposed Action
2. Proposed Regulatory Language
3. California Board of Accountancy - Initial Statement of Reasons

TITLE 16. DIVISION 1. CALIFORNIA BOARD OF ACCOUNTANCY

NOTICE IS HEREBY GIVEN that the California Board of Accountancy (CBA) is proposing to take the action described in the Informative Digest. Any person interested may present statements or arguments orally or in writing relevant to the action proposed at a hearing to be held at The Hilton Pasadena, 168 South Los Robles Avenue, Pasadena, CA 91101 at 1:30 pm, on November 19, 2015. Written comments, including those sent by mail, facsimile, or e-mail to the addresses listed under Contact Person in this Notice, must be received by the CBA at its office not later than 5:00 p.m. on November 16, 2015 or must be received by the CBA at the hearing. The CBA, upon its own motion or at the instance of any interested party, may thereafter adopt the proposals substantially as described below or may modify such proposals if such modifications are sufficiently related to the original text. With the exception of technical or grammatical changes, the full text of any modified proposal will be available for 15 days prior to its adoption from the person designated in this Notice as contact person and will be mailed to those persons who submit written or oral testimony related to this proposal or who have requested notification of any changes to the proposal.

Authority and Reference: Pursuant to the authority vested by Sections 5010 and 5076 of the Business and Professions Code (BPC), and to implement, interpret or make specific Section 5076 of said Code, the CBA is considering changes to Division 1 of Title 16 of Section 42 of the California Code of Regulations as follows:

INFORMATIVE DIGEST

A. Informative Digest

The regulatory proposal is as follows:

1. Amend Section 42 in Title 16 of the California Code of Regulations.

This proposal would amend the services that are excluded from peer review to include firms that, as their highest level of work only perform preparation engagements (with or without disclaimer reports).

B. Policy Statement Overview/Anticipated Benefits of Proposal

This regulatory proposal would clarify what services are excluded from peer review. Amending the language will benefit firms by providing clarity regarding whether they are subject to the peer review requirement in California.

C. Consistency and Compatibility with Existing State Regulations

During the process of developing these regulations and amendments, the CBA has conducted a search of any similar regulations on this topic and has concluded that

these regulations are neither inconsistent nor incompatible with existing state regulations.

INCORPORATION BY REFERENCE

None

FISCAL IMPACT ESTIMATES

Fiscal Impact on Public Agencies Including Costs or Savings to State Agencies or Costs/Savings in Federal Funding to the State:

None

Nondiscretionary Costs/Savings to Local Agencies:

None

Local Mandate:

None

Cost to Any Local Agency or School District for Which Government Code Sections 17500 - 17630 Require Reimbursement:

None

Business Impact:

The CBA has made an initial determination that the proposed regulatory action would have no significant statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states.

AND

The following studies/relevant data were relied upon in making the above determination.

Firms as their highest level of work that perform only preparation engagements (with or without disclaimer reports) would have a cost savings as a result of being excluded from the peer review process.

Cost Impact on Representative Private Person or Business:

The CBA is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

Effect on Housing Costs:

None

EFFECT ON SMALL BUSINESS

The CBA has determined that the proposed regulations would affect small businesses. The cost savings as a result of being excluded from the peer review process would be a benefit to many small businesses that as the highest level of work only perform preparation engagements (with or without disclaimer reports).

RESULTS OF ECONOMIC IMPACT ASSESSMENT/ANALYSIS

Impact on Jobs/Businesses:

The CBA has determined that this regulatory proposal will not have a significant impact on the creation of jobs or new businesses or the elimination of jobs or existing businesses or the expansion of businesses in the State of California.

Benefits of Regulation:

The CBA has determined that this regulatory proposal will have the following benefits to the health and welfare of California residents, worker safety, and state's environment:

This regulatory proposal does not affect health and welfare of California residents because it has nothing to do with health and welfare.

This regulatory proposal does not affect worker safety because it has nothing to do with worker safety.

This regulatory proposal does not affect the state's environment because it has nothing to do with the environment.

CONSIDERATION OF ALTERNATIVES

The CBA has determine that no reasonable alternative it considered would be more effective in carrying out the purpose for which the action is proposed, would be as effective and less burdensome to affected private persons than the proposal described in this Notice, or would be more cost effective to affected private persons and equally effective in implementing the statutory policy or other provision of law.

Any interested person may present statements or arguments orally or in writing relevant to the above determinations at the above-mentioned hearing.

INITIAL STATEMENT OF REASONS AND INFORMATION

The CBA has prepared an initial statement of the reasons for the proposed action and has available all the information upon which the proposal is based.

TEXT OF PROPOSAL

Copies of the exact language of the proposed regulations, and any document incorporated by reference, and of the initial statement of reasons, and all of the information upon which the proposal is based, may be obtained at the hearing or prior to the hearing upon request from the CBA at 2000 Evergreen St., Ste. 250, Sacramento, California, 95815.

AVAILABILITY AND LOCATION OF THE FINAL STATEMENT OF REASONS AND RULEMAKING FILE

All the information upon which the proposed regulations are based is contained in the rulemaking file which is available for public inspection by contacting the person named below.

You may obtain a copy of the final statement of reasons once it has been prepared, by making a written request to the contact person named below or by accessing the website listed below.

CONTACT PERSON

Inquiries or comments concerning the proposed rulemaking action may be addressed to:

Name: Pat Billingsley
Address: 2000 Evergreen St., Ste. 250
Sacramento, CA 95815
Telephone No.: 916-561-1782
Fax No.: 916-263-3678
E-Mail Address: pat.billingsley@cba.ca.gov

The backup contact person is:

Name: Matthew Stanley
Address: 2000 Evergreen St., Ste. 250
Sacramento, CA 95815
Telephone No.: 916-561-1792
Fax No.: 916-263-3678
E-Mail Address: matthew.stanley@cba.ca.gov

Website Access: Materials regarding this proposal can be found at http://www.dca.ca.gov/cba/laws_and_rules/pubpart.shtml.



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Attachment 2

Proposed Regulatory Language

CALIFORNIA CODE OF REGULATIONS TITLE 16. Professional and Vocational Regulations

Article 6 – Peer Review, § 42. Exclusions.

- (a) The following shall be excluded from the peer review requirement:
- (1) Any of a firm's engagements subject to inspection by the Public Company Accounting Oversight Board as part of its inspection program.
 - (2) Firms, which as their highest level of work, perform only ~~compilations where no report is issued~~ preparation engagements (with or without disclaimer reports) in accordance with the provisions of the Statements on Standards for Accounting and Review Services (SSARS).

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

CALIFORNIA BOARD OF ACCOUNTANCY

INITIAL STATEMENT OF REASONS

Hearing Date: November 19, 2015

Subject Matter of Proposed Regulations: Peer Review - Exclusion

Section(s) Affected: Title 16, Division 1, section 42

Specific Purpose of each adoption, amendment, or repeal:

1. Amend Section 42

Problem being addressed:

A “peer review” is a study, appraisal, or review conducted in accordance with professional standards of the professional work of a firm. California Business and Professions Code (BPC) section 5076(a) requires all accounting firms to have a peer review report of its accounting and auditing practice every three years. Title 16, California Code of Regulations (CCR) section 39 defines an accounting and auditing practice to include any services that are performed using the following professional standards:

- Statements on Auditing Standards (SASs)
- Statements on Standards for Accounting and Review Services (SSARS)
- Statements on Standards on Attestation Engagements (SSAEs)
- Government Auditing Standards
- Audits of non-Security Exchange Commission (SEC) issuers performed pursuant to the standards of the Public Company Accounting Oversight Board (PCAOB).

In November 2014, the American Institute of CPA's (AICPA) Peer Review Board (PRB) issued an exposure draft of revised Standards for Performing and Reporting on Peer Reviews that would exclude firms that only perform preparation engagements (with or without disclaimer reports) under Statement on Standards for Accounting and Review Services (SSARS) from enrollment in the peer review program. However, for firms that are otherwise required to undergo peer review, engagements to prepare financial statements would fall within the scope of the peer review. At its January 2015 meeting, the PRB adopted the proposed changes.

In reviewing the proposed revisions to the SSARS standard at its August 22, 2014 meeting, the CBA's Peer Review Oversight Committee (PROC) reasoned that since the preparation of financial statements is a lower level service than compilations where no report is issued in accordance with the provisions of SSARS, the new preparation engagement service should be similarly exempted from peer review.

In October 2014, the AICPA issued SSARS No. 21, which supersedes all but one of the prior standards. The SSARS 21 changes clarify and revise the standards for reviews, compilations, and engagements to prepare financial statements. CPA's that as the highest level of service provided only compilations where no report is issued were previously excluded from peer review. As a result of the clarification and revision of the standard, compilations where no report is issued no longer exists and is now replaced by preparation engagements (with or without disclaimer reports).

The changes to SSARS create a distinct separation between accounting (preparation) and reporting (compilation) services. When only preparing financial statements, the accountant would no longer have to be concerned whether the financial statements are to be used internally by knowledgeable parties or by third parties. The AICPA viewed this reporting obligation as a management function. Consequently, a report would not be required even when the financial statements are expected to be used by or presented to a third party. This new preparation engagement standard will apply when an accountant is engaged to prepare financial statements but is not engaged to perform an audit, review, or compilation on those financial statements.

Existing law at CCR section 42 excludes from peer review firms, which at their highest level of work, perform only compilations where no report is issued. However, as currently written, CCR section 42 does not exempt preparation engagements from peer review, even though no report will be issued by the accountant performing this service.

The CBA has received inquiries related to SSARS 21 and its impact on the peer review requirement for California accounting firms. To provide added clarity to the regulatory text for the regulated public and remain consistent with the latest changes to SSARS, amendment of the language specifically excluding firms, which as their highest level of work, perform only preparation engagements (with or without disclaimer reports) is proposed. Changes in the standard developed by the AICPA that amended the definition of service clarifies the scope of service provided to the public.

Anticipated benefits from this regulatory action:

This regulatory amendment would clarify language in CCR, Title 16, section 42 regarding the firms that are excluded from the peer review requirement. Amending the language will benefit firms by providing clarity regarding whether they are subject to the peer review requirement in California if the firms only perform preparation engagements as their highest level of work.

Factual Basis/Rationale

Factual basis for determination that each proposed change is reasonably necessary to address the problem for which it is proposed:

BPC section 5076(c) authorizes the CBA to adopt regulations regarding exclusions from the peer review requirement.

This regulatory proposal would amend language in CCR section 42 to exclude firms, which as their highest level of work, perform only preparation engagements (with or without disclaimer reports) in accordance with the provisions of SSARS.

The issuing of SSARS 21 by the AICPA creates a new level of accounting and auditing service for engagements to prepare financial statements. The CBA's regulations presently do not directly address this type of service. The replacement of compilation without report to preparation engagements (with or without disclaimer reports) is the result of changes in the standard developed by the AICPA. This amended language clarifies the service provided to the public.

Underlying Data

Technical, theoretical or empirical studies, reports, or documents relied upon (if any):

- American Institute of Certified Public Accountants (AICPA), Statement on Standards for Accounting and Review Services (SSARS) No. 21.
- Minutes of the August 22, 2014 PROC meeting
- Memo from Rafael Ixta, Chief of Enforcement and Seid Sadat, PROC Member dated July 22, 2014 with attachments
- Minutes of the May 28-29, 2015 CBA Meeting

Business Impact

This regulation will not have a significant adverse economic impact on businesses. This initial determination is based on the following facts or evidence/documents/testimony:

Existing law excludes firms, which as their highest level of work, perform only compilations where no report is issued. The proposed amendment would clarify and specifically exclude those firms, which as their highest level of work, perform only preparation engagements (with or without disclaimer reports) from the peer review requirement.

Economic Impact Assessment

This regulatory proposal will have the following effects:

- It will not create or eliminate jobs within the State of California because it only clarifies that firms, which as their highest level of work, perform only preparation engagements (with or without disclaimer reports) are excluded from the peer review requirement and is not of sufficient magnitude to affect the expansion of jobs within the State of California.
- It will not create new businesses or eliminate existing businesses within the

State of California because it only clarifies which firms would be excluded from peer review that have an accounting and auditing practice and is not of sufficient magnitude to create or eliminate businesses in the State of California.

- It will not affect the expansion of businesses currently doing business within the State of California because it only clarifies which firms would be excluded from peer review that have an accounting and auditing practice and is not of sufficient magnitude to affect the expansion of business within the State of California.
- This regulatory proposal does not affect the health and welfare of California residents because it has nothing to do with health and welfare.
- The regulatory proposal does not affect worker safety because it has nothing to do with worker safety. The regulatory proposal only impacts those accountancy firms that would be excluded from peer review and does not affect worker safety.
- This regulatory proposal does not affect the state's environment because it has nothing to do with the California environment.

Specific Technologies or Equipment

This regulation does not mandate the use of specific technologies or equipment.

Consideration of Alternatives

No reasonable alternative to the regulatory proposal would be either more effective in carrying out the purpose for which the action is proposed or would be as effective or less burdensome to affected private persons and equally effective in achieving the purposes of the regulation in a manner that ensures full compliance with the law being implemented or made specific.

Set forth below are the alternatives which were considered and the reasons each alternative was rejected:

Alternative: The CBA considered not amending Section 42 to clarify which firms would be excluded from peer review.

Rejected: The alternative was rejected because the regulatory proposal clarifies that the level of services has been redefined and compilation with or without report has been replaced by preparation engagements (with or without disclaimer reports). Peer review is not necessary for this level of service.



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CBA Item IX.B.
November 19, 2015

Discussion and Possible Action to Amend Title 16, California Code of Regulations Section 42 – Peer Review Reporting

Presented by: Matthew Stanley, Information and Planning Officer

Consumer Protection Objectives

The purpose of this agenda item is to provide an opportunity for the California Board of Accountancy (CBA) to adopt proposed changes to Title 16, California Code of Regulations Division 1 (CBA Regulations), section 42 excluding firms, which as their highest level of service, perform only preparation engagements (with or without disclaimer reports) from the peer review requirement. This agenda item is a necessary part of the CBA's normal course of business, and as such, it will assist the CBA in continuing its mission of consumer protection as mandated by statute in Business and Professions Code section 5000.1.

Action(s) Needed

The CBA will be asked to adopt the proposed changes to CBA Regulations section 42.

Background

Business and Professions Code section 5076(c), authorizes the CBA to adopt regulations as necessary to implement, interpret, and make specific the peer review requirements in this section, including, but not limited to, regulations specifying the requirements for board recognition of a peer review program, standards for administering a peer review, extensions of time for fulfilling the peer review requirement, exclusions from the peer review program, and document submission.

At its May 28, 2015 meeting, the CBA directed staff to work with legal counsel to finalize regulatory language and initiate the rulemaking process to amend CBA Regulations section 42 to replace compilations where no report is issued with preparation engagements in the peer review exclusions.

Following the regulatory hearing to receive public comment on the proposal (**CBA Agenda Item IX.A.**) the next step in the rulemaking process is that the CBA must act to formally adopt the proposed regulations outlined in this item. The CBA may decide to make changes to the proposed regulations based on any received comments, or it may proceed with adopting the proposal without modification.

Discussion and Possible Action to Amend Title 16, California Code of Regulations Section 42 – Peer Review Reporting

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Comments

No comments were received prior to the CBA mail out.

If no changes are to be made after the public comment period and hearing closes.

Motion: Direct staff to take all steps necessary to complete the rulemaking process, including the filing of the final rulemaking package with the Office of Administrative Law (OAL), authorize the Executive Officer to make any non-substantive changes to the proposed regulations, and adopt the proposed regulations as originally noticed.

If substantive changes are to be made after the public comment period and hearing closes.

Motion: Direct staff to take all steps necessary to complete the rulemaking process, including sending out the modified text for an additional 15-day comment period. If after the 15-day public comment period, no adverse comments are received, authorize the Executive Officer to make any non-substantive changes to the proposed regulations, and adopt the proposed regulations as described in the modified text notice.

Fiscal/Economic Impact Considerations

This proposed regulatory amendment will not have a significant adverse economic impact on businesses. It will not create or eliminate jobs within the State of California because it only clarifies that firms, which as their highest level of work, perform only preparation engagements (with or without disclaimer reports) are excluded from the peer review requirement and is not of sufficient magnitude to affect the expansion of jobs within the State of California.

Recommendation

Staff recommend the CBA adopt the motion regarding no additional changes and direct staff to take all steps necessary to complete the rulemaking process, including the filing of the final rulemaking package with the OAL; authorize the Executive Officer to make any non-substantive changes to the proposed regulations, and adopt the proposed regulations as originally noticed.

Attachment

Proposed Regulatory Language



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Proposed Regulatory Language

Attachment

CALIFORNIA CODE OF REGULATIONS TITLE 16. Professional and Vocational Regulations

Article 6 – Peer Review, § 42. Exclusions.

- (a) The following shall be excluded from the peer review requirement:
- (1) Any of a firm's engagements subject to inspection by the Public Company Accounting Oversight Board as part of its inspection program.
 - (2) Firms, which as their highest level of work, perform only ~~compilations where no report is issued~~ preparation engagements (with or without disclaimer reports) in accordance with the provisions of the Statements on Standards for Accounting and Review Services (SSARS).

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



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CBA Item IX.C.
November 19, 2015

Report on the Status of the Rulemaking to Amend Title 16, California Code of Regulations Section 70 – Fees.

Presented by: Matthew Stanley, Information and Planning Officer

Consumer Protection Objectives

The purpose of this agenda item is to present the California Board of Accountancy (CBA) with an update on the status of the fee restoration rulemaking package. The CBA is proposing to restore initial permit and biennial renewal fees to pre-FY 2011-12 levels to increase its reserve to provide sufficient resources to protect California consumers through its licensing, regulatory and disciplinary functions.

Action(s) Needed

No specific action is required on this agenda item.

Background

Business and Professions Code section 5134 authorizes the CBA to charge various fees including fees for application for the certified public accountant examination and reexamination; an application fee for issuance of a certified public accountant certificate; an application fee for registration as a partnership or corporation; and for the biennial license renewal fee.

At its March 19, 2015 meeting, the CBA directed staff to move forward with the rulemaking process to amend Title 16, CCR, section 70, which would restore biennial license renewal and initial permit fees to \$200.

Following the regulatory hearing on May 25, 2015 to receive public comment on the proposal, the CBA adopted the proposed fee changes. Staff completed the rulemaking package and submitted to the Department of Consumer Affairs (DCA).

Comments

Staff are monitoring the progress of the fee rulemaking package as it is being reviewed by DCA, Business, Consumer Services, and Housing Agency (Agency), and Department of Finance (DOF). The rulemaking package has progressed through DCA and is under review at Agency. It will then be reviewed by DOF. It is expected to be submitted to Office of Administrative Law early in 2016.

Report on the Status of the Rulemaking to Amend Title 16, California Code of Regulations Section 70 – Fees.

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If approved, the proposed fee restoration will go into effect on July 1, 2016. Staff anticipate that the final approval of the regulation package will be completed with adequate time to conduct outreach before the implementation date.

Fiscal/Economic Impact Considerations

There are no fiscal/economic impact considerations.

Recommendation

Staff do not have a recommendation on this agenda item.

Attachment

None



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EPOC Item II.
November 19, 2015

CBA Item XI.A.2.
November 19, 2015

Discussion and Possible Action to Seek Legislation to Add Authority to Examine Licensees for Mental and Physical Illness Affecting Competency

Presented by: Matthew Stanley, Information and Planning Officer

Consumer Protection Objectives

The purpose of this agenda item is to present to the California Board of Accountancy (CBA) proposed legislative language to add Business and Professions Code (BPC) sections 5140-5148 (**Attachment**) regarding mental and physical illness. The proposal is designed to give the CBA the authority to require a licensee to be examined by a doctor to determine if the licensee's ability to practice public accountancy is a threat to the consumers due to a mental or physical ailment.

Action(s) Needed

If it chooses to proceed, the CBA will be asked to approve the language and direct staff to seek an author for the legislation.

Background

At its November 2014 meeting, the CBA initially considered the topic of evaluating the mental or physical health of a licensee when there could be potential harm to consumers. The CBA directed the Enforcement Program Oversight Committee (EPOC) to evaluate the matter further. The EPOC examined the issue at its May 2015 meeting. Following the EPOC recommendation, the CBA directed staff to prepare a legislative proposal based on BPC sections 820-828 which allows health boards to require a licensee to be examined by a doctor to determine if the licensee's ability to practice is a threat to the consumers due to a mental or physical ailment.

In addition, the CBA also directed staff to contact the Department of Consumer Affairs and other boards to gauge interest in developing a general statute regarding this topic that would cover all licensing bodies.

Comments

As directed, staff contacted all non-healing arts boards and bureaus to determine if there would be any interest in a general statute granting authority to the boards and bureaus to require a licensee to be examined by a doctor to determine if the licensee's ability to practice is a threat to the consumers due to a mental or physical ailment. Staff

Discussion and Possible Action to Seek Legislation to Add Authority to Examine Licensees for Mental and Physical Illness Affecting Competency

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received one affirmative response and six negative responses. As such, the proposed language is drafted to apply to the CBA only.

In addition, staff contacted the Senate Business, Professions, and Economic Development Committee (Committee) to determine if such a proposal would be considered for inclusion in next year's omnibus bill. Committee staff informed CBA staff that, because of the complex nature of the proposal and the fact that it would be a new program, this proposal would not be included in an omnibus bill. Committee staff also indicated that if the CBA were able to find an author, they anticipated that there would be opposition, and the CBA would need solid evidence for the need of such a law. As the chair of the Committee had not reviewed the proposal, the Committee staff could not state whether they would be opposed to such a bill.

Committee staff also indicated that the existing provisions apply to healing arts boards because individuals' lives and health could be put in jeopardy. Committee staff also pointed out that there was an effort this year in Senate Bill 468 to give the Bureau of Security and Investigative Services a similar ability to give a psychological evaluation to those applying for a firearms permit through the bureau, again where lives and health could be put in jeopardy, and the effort failed.

Should the CBA wish to proceed with a legislative effort in this matter, staff have prepared draft legislative language in the **Attachment** that is nearly identical to the language used by the healing arts boards. The proposed language does the following:

- Grants the CBA the authority to order a licensee to undergo a mental or physical exam at the CBA's expense.
- Creates grounds for discipline should the licensee fail to comply with such an order.
- Allows the CBA to discipline the license of a licensee where the CBA makes a determination that there is a threat to the public interest because the licensee is physically or mentally ill.
- Allows for reinstatement with terms and conditions of a license disciplined under these provisions.
- Allows the CBA to meet in closed session to consider evidence relating to physical or mental illness.
- If no action is brought against a licensee, all records of the proceedings and evaluations are confidential and not subject to discovery for a period of five years, after which they are to be destroyed. However, if new proceedings begin within the five years, the prior records may also be used.

This language is still in draft form, and staff would welcome any input the CBA may provide.

Discussion and Possible Action to Seek Legislation to Add Authority to Examine Licensees for Mental and Physical Illness Affecting Competency

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Fiscal/Economic Impact Considerations

The hourly rate for a mental or physical examination ranges from \$125 to \$600 per hour (depending on the nature and number of specialists and tests required) and the average cost for an examination ranges from \$600 to \$1,500. The CBA would bear the costs of these examinations. As it is not expected that the CBA would use this authority very often, the fiscal impact is expected to be minimal.

Recommendation

Staff have no recommendation on this item. Should the CBA decide to pursue this legislative proposal, staff would seek an author in the 2016 legislative year.

Attachment

Proposed Legislative Language

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**Attachment****Proposed Legislative Language****Article 8.5 – Mental Illness or Physical Illness****5140.**

Whenever it appears to the board that the continued practice of public accountancy by any individual holding a license or practice privilege under this chapter may be a threat to the public interest or safety because the licensee's ability to practice is impaired due to mental illness, or physical illness affecting competency, the board may order the licensee to be examined by one or more physicians and surgeons or psychologists designated and paid for by the agency. The report of the examiners shall be made available to the licensee and may be received as direct evidence in proceedings conducted pursuant to Section 5142.

5141.

The licensee's failure to comply with an order issued under Section 5140 shall constitute grounds for the suspension or revocation of the licensee's license or practice privilege.

5142.

(a) If the board determines that the licensee's ability to practice public accountancy is a threat to the public interest or safety because the licensee is mentally ill, or physically ill affecting competency, the board may take action by any one of the following methods:

- (1) Revoking the licensee's license or practice privilege.
- (2) Suspending the licensee's license or practice privilege.
- (3) Placing the licensee on probation.
- (4) Taking such other action in relation to the licensee as the board in its discretion deems proper.

(b) The board shall not reinstate a license or practice privilege revoked or suspended pursuant to this section until the following conditions are met:

- (1) It has received competent evidence of the absence or control of the condition which caused its action, and
- (2) It is satisfied that, with due regard for the public interest and safety, the individual's right to practice public accountancy may be safely reinstated.

5143.

(a) Notwithstanding any other provisions of law, reinstatement of the license of a licensee against whom action has been taken pursuant to Section 5142 shall be governed by the procedures in this article. In reinstating a license or practice privilege which has been revoked or suspended under Section 5142, the board may impose terms and conditions to be complied with by the licensee after the license or practice privilege has been reinstated.

(b) The authority of the board to impose terms and conditions includes, but is not limited to, the following:

(1) Requiring the licensee to obtain additional continuing education and to pass an examination upon the completion of the continuing education.

(2) Requiring the licensee to take and pass the certified public accountant examination.

(3) Requiring the licensee to submit to a complete diagnostic examination by one or more physicians and surgeons or psychologists designated and paid for by the board. If the board requires the licensee to submit to such an examination, the licensing agency shall also receive and consider any other report of a complete diagnostic examination given by one or more physicians and surgeons or psychologists of the licensee's choice.

(4) Requiring the licensee to undergo continuing treatment.

(5) Restricting or limiting the extent, scope or type of practice of the licensee.

5144.

The board may proceed against a licensee under either Section 5140, or 5142, or under both sections.

5146.

The proceedings under Sections 5141 and 5142 shall be conducted in accordance with Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code, and the board and the licensee shall have all the rights and powers granted therein.

5147.

Notwithstanding the provisions of Article 9 (commencing with Section 11120) of Chapter 1 of Part 1 of Division 3 of Title 2 of the Government Code, relating to public meetings, the board may convene in closed session to consider any evidence relating to the licensee's mental or physical illness obtained pursuant to the proceedings under Section 5140. The board shall only convene in closed session to the extent that it is necessary to protect the privacy of a licensee.

5148.

If the board determines, pursuant to proceedings conducted under Section 5140, that there is insufficient evidence to bring an action against the licensee pursuant to Section 5142, then all board records of the proceedings, including the order for the examination, investigative reports, if any, and the report of the physicians and surgeons or psychologists, shall be kept confidential and are not subject to discovery or subpoena. If no further proceedings are conducted to determine the licensee's fitness to practice during a period of five years from the date of the determination by the board of the proceeding pursuant to Section 5140, then the board shall purge and destroy all records pertaining to the proceedings. If new proceedings are instituted during the five-year period against the licensee by the board, the records, including the report of the physicians and surgeons or psychologists, may be used in the proceedings and shall be available to the respondent pursuant to the provisions of Section 11507.6 of the Government Code.

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CPC Item II.
November 19, 2015

CBA Item XI.B.2.
November 19, 2015

**Discussion and Possible Action to Initiate a Rulemaking to Amend Title 16,
California Code of Regulations Section 87 – Continuing Education Requirements**

Presented by: Gina Sanchez, Chief, Licensing Division

Consumer Protection Objectives

The purpose of this agenda item is to provide an opportunity for the California Board of Accountancy (CBA) to discuss the impact that the American Institute of Certified Public Accountants (AICPA) Statement on Standards for Accounting and Review Services No. 21 (SSARS 21), *Statement on Standards for Accounting and Review Services: Clarification and Recodification* may have on the present accounting and auditing (A&A) and fraud continuing education (CE) requirement.

Action(s) Needed

No specific action is required on this agenda item unless the CBA decides to prescribe a determined amount of specific CE as it pertains to providing preparation engagements.

Background

In May 2015, the CBA began discussion of the AICPA's October 2014 issuance of SSARS 21 and specifically section 70 – Preparation of Financial Statements, commonly referred to as preparation engagements. This discussion was focused on the impact SSARS 21 had on peer review and consideration to amend CBA Regulations section 42 (**Attachment 1**). The CBA acted to initiate the rulemaking process to amend CBA Regulations 42 to exclude firms from peer review that, as their highest level of work, perform only preparation engagements.

In September 2015, the CBA considered the impact of SSARS 21 as it relates to the 24-hour A&A CE requirement, CBA Regulations section 87(d) (**Attachment 2**), and the four-hour fraud CE requirement, CBA Regulations section 87(e) (**Attachment 3**). The discussion concluded with the CBA requesting staff to provide a more in-depth analysis on the history behind the changes to SSARS, the level of service that constitutes a preparation engagement, who relies on this type of engagement, and whether consideration was given regarding the impact to CE.

Comments

In an effort to gain clarification and insight into the history behind the creation of SSARS 21, staff reached out to the AICPA and spoke with the liaison to the Accounting and

Discussion and Possible Action to Initiate a Rulemaking to Amend Title 16, California Code of Regulations Section 87 – Continuing Education Requirements

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Review Services Committee (ARSC). According to the representative, SSARS 21 was an attempt to modernize the standards for non-audit engagements. Section 70 of SSARS 21, which discusses prepared financial statement engagements, is largely the result of technological changes and the advent of the cloud accounting software. Certified Public Accountants (CPA) are increasingly being engaged by clients to prepare entries in their client's accounting systems that lead to financial statements. As a result, clarification was needed to define this type of service and determine if this service should be considered a compilation. With SSARS 21 creating the preparation engagement service level, the value of a compilation engagement is re-established because CPAs and their clients are now able to clearly define the responsibilities and expectations of a financial statement engagement at the start of the engagement, rather than at the end.

SSARS 21 was initiated on June 29, 2012 when the ARSC exposed for public comment a trio of proposed SSARSs. SSARS 21 represents the ARSC's efforts to clarify and revise the standards for reviews, compilations, and engagements to prepare financial statements. The purpose of the proposed SSARSs was to effectively communicate the accountant's responsibilities when the accountant is associated with financial statements on which the accountant had not performed an audit, review, or compilation. ARSC concluded that the result would be two streamlined compilation and preparation standards that would be easy to understand and apply. The proposed SSARSs were exposed for public comment and on October 23, 2014, the ARSC issued SSARS 21. SSARS 21 is effective for engagements on financial statements for periods ending on or after December 15, 2015 but early implementation is permitted. The AICPA's executive summary of SSARS 21 is provided in (**Attachment 4**).

SSARS 21 describes a preparation engagement as an accountant in public practice engaged to prepare financial statements but is not engaged to perform an audit, review, or compilation on those financial statements. The accountant is not required to be independent and no report is issued. Each page of the financial statement is required to clearly state that "no assurance is provided" or another form of disclaimer stating the accountant did not perform an audit, review, or compilation. SSARS 21 also clarified the definition of a compilation by now requiring a report for all compilations.

The AICPA provides four examples of preparation engagements:

- Preparing financial statements prior to audit or review by another accountant
- Preparing financial statements that are not expected to be used by a third party (management-use only financial statements)
- Preparing a single financial statement, such as a balance sheet or financial statements with substantially all disclosures omitted
- Using the information in a general ledger to prepare financial statements outside of an accounting software system

Discussion and Possible Action to Initiate a Rulemaking to Amend Title 16, California Code of Regulations Section 87 – Continuing Education Requirements

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The AICPA states that these examples are not intended to be all inclusive and professional judgment still needs to be applied. SSARS 21 also provides an Illustrative Engagement Letter for a preparation engagement that clearly defines the responsibilities of both the licensee and management (**Attachment 5**).

The creation of the preparation engagement service in SSARS 21 has generated inquiries regarding the 24-hour A&A and four-hour fraud CE requirements. CBA Regulations section 87(d) further clarifies that a licensee who plans, directs, performs a substantial portion of the work, or reports on an audit, review, compilation, or attestation service on a non-governmental entity, must complete 24 of the required 80 hours of CE in courses related to the following:

- Financial statement preparation and/or reporting
- Auditing, reviews, and/or compilations
- Industry accounting
- Attestation or assurance services

CBA Regulations section 87(e) requires a licensee who is subject to the 24-hour A&A CE requirement to complete an additional four hours of CE related to the prevention, detection, and/or reporting of fraud affecting financial statements.

The new preparation engagement does not fall under any of the referenced services; it is neither a compilation, nor is it classified as an attestation engagement. Therefore, this service falls outside the scope of the present A&A and fraud CE requirements. The services provided under the new preparation engagement are similar to the services provided under the prior SSARS 19, which was a compilation where no report is issued (commonly referred to as “internal use only” or “management use only”). Under the prior SSARS 19, as this type of service was defined as a compilation, licensees were required to complete the A&A and fraud CE requirements.

Staff researched the exposure drafts that led to SSARS 21 and the final version of SSARS 21 to determine if the AICPA offered any guidance concerning CE for licensees performing preparation engagements. Staff were unable to identify any consideration as to how CE would be affected for those only performing preparation engagements.

As previously reported at the September 2015 CBA meeting, staff researched the CE requirements of 30 state boards of accountancy to determine if other states are impacted by SSARS 21. Staff found four states that prescribe CE based on the type of work performed specifically related to attest work. Staff found two states that presently direct licensees who are involved at any level of the attest service, including preparation, to complete the prescribed A&A CE requirement in accordance with their board regulations. Staff found no state that had prescribed CE specifically related to preparation engagements.

Discussion and Possible Action to Initiate a Rulemaking to Amend Title 16, California Code of Regulations Section 87 – Continuing Education Requirements

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Staff received correspondence from Robert Ruehl, CPA, Chair of the Qualifications Committee (QC), in which he provided insight regarding the implementation of SSARS 21 (**Attachment 6**). Mr. Ruehl stated that SSARS 21 applies to a wide variety of entities, from tax basis financials for small businesses to financial statements in accordance with generally accepted accounting principles for large business entities. Further, it is his understanding that preparation engagements can be performed by all licensees.

To further assist the CBA in its discussion, staff conducted research to determine if CE courses exist related to preparation engagement subject matter. Staff found few providers that offer courses directly related to preparation engagements. As an example, the AICPA offers a three-hour course specifically related to preparation engagements. Staff did find several CE providers that offer courses pertaining to the entire SSARS 21 clarification and recodification. This type of overview course addresses all three types of engagements that can be performed under SSARS 21 including: preparations, compilations and reviews. For example, California Society of CPAs offers a 1.5 hour overview course of SSARS 21 and other CE providers are offering overview courses that range from one to 10 hours.

If the CBA decides that licensees performing only this level of service should be subject to a determined amount of prescribed CE, staff will bring proposed regulatory language at a future CBA meeting.

Fiscal/Economic Impact Considerations

There are no fiscal/economic impact considerations.

Recommendation

Staff do not have a recommendation on this item.

Attachments

1. Proposed Amendment to CBA Regulations section 42
2. CBA Regulations section 87(d) – Accounting and Auditing Continuing Education Requirement
3. CBA Regulations section 87(e) – Fraud Continuing Education Requirement
4. AICPA Summarization of the SSARS Clarity Project and SSARS No. 21
5. SSARS No. 21– Illustrative Engagement Letter
6. Letter from Robert J. Ruehl, CPA, QC Chair



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Attachment 1

Proposed Amendment to CBA Regulations Section 42

CALIFORNIA CODE OF REGULATIONS
TITLE 16. Professional and Vocational Regulations
DIVISION 1. Board of Accountancy Regulations
ARTICLE 6 - Peer Review

§ 42. Exclusions.

(a) The following shall be excluded from the peer review requirement:

(1) Any of a firm's engagements subject to inspection by the Public Company Accounting Oversight Board as part of its inspection program.

(2) Firms, which as their highest level of work, perform only the following services ~~compilations where no report is issued~~ in accordance with the provisions of the Statements on Standards for Accounting and Review Services (SSARS):

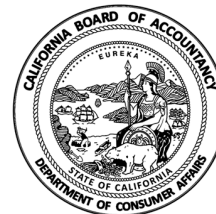
(a) Compilations where no report is issued, or

(b) Preparation engagements (with or without disclaimer reports).

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

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**Attachment 2**

**CBA Regulations Section 87(d)
Accounting and Auditing Continuing Education Requirement**

A licensee who engages in planning, directing, performing substantial portions of the work, or reporting on an audit, review, compilation, or attestation service, shall complete 24 hours of the 80 hours of continuing education required pursuant to subsection (a) in the course subject matter pertaining to financial statement preparation and/or reporting (whether such statements are prepared on the basis of generally accepted accounting principles or other comprehensive bases of accounting), auditing, reviews, compilations, industry accounting, attestation services, or assurance services. This continuing education shall be completed in the same two-year license renewal period as the report is issued. If no report is issued because the financial statements are not intended for use by third parties, the continuing education shall be completed in the same two-year license renewal period as the financial statements are submitted to the client.



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Attachment 3

CBA Regulations Section 87(e) Fraud Continuing Education Requirement

A licensee who must complete continuing education pursuant to subsections (c) and/or (d) of this section shall also complete an additional four hours of continuing education specifically related to the prevention, detection, and/or reporting of fraud affecting financial statements. This continuing education shall be part of the 80 hours of continuing education required by subsection (a), but shall not be part of the continuing education required by subsections (c) or (d).

Statement on Standards for Accounting and Review Services No. 21, *Statements on Standards for Accounting and Review Services: Clarification and Recodification*

A summarization of the SSARs Clarity Project and SSARS No. 21



Statement on Standards for Accounting and Review Services (SSARS) No. 21, *Statements on Standards for Accounting and Review Services: Clarification and Recodification* was issued in October 2014. SSARS No. 21 represents the AICPA’s Accounting and Review Services Committee’s (ARSC) efforts to clarify and revise the standards for reviews, compilations, and engagements to prepare financial statements.

SSARs Clarity Project

With the release of Statement on Auditing Standards (SAS) Nos. 122–124 in October 2011, the Auditing Standards Board (ASB) reached a major milestone in its project to redraft all of the auditing sections in AICPA *Professional Standards*. The clarified auditing standards are designed to make the standards easier to read, understand, and apply.

The ARSC concluded that undertaking a similar clarity project for the SSARs would serve the public interest and ensure that all professional literature for audits, reviews, and compilations are drafted using the same conventions. In addition, the resulting clarified compilation and review standards would be easier to read, understand, and apply.

In May 2010, the ARSC approved a project to revise all its existing compilation and review standards in the AR sections of AICPA *Professional Standards*, substantially using the drafting conventions adopted by the ASB in clarifying the auditing literature.

The ARSC determined, however, that there would be certain differences between its clarity drafting conventions and those adopted by the ASB. Specifically, the ARSC determined not to include specific application guidance with respect to governmental entities and smaller, less complex entities.

Accordingly, the ARSC’s clarity drafting conventions include the following:

- Establish objectives for each clarified AR section.
- Include a definitions section, if relevant, in each clarified AR section.
- Separate requirements from application and other explanatory material.
- Number application and other explanatory material paragraphs with the prefix “A-“ and present them in a separate section that follows the requirements section.
- Use formatting techniques, such as bulleted lists, to enhance readability.

SSARS No. 21

In addition to clarifying the standards, SSARS No. 21 includes significant revisions that affect the standards for accountants in public practice who prepare financial statements for their clients. This standard is effective for reviews, compilations, and engagements to prepare financial statements for financial statements for periods ending on or after December 15, 2015. Early implementation is permitted.

SSARS No. 21 is structured as follows:

Section 60, *General Principles for Engagements Performed in Accordance With Statements on Standards for Accounting and Review Services*— Provides general principles for SSARSs engagements.

Section 70, *Preparation of Financial Statements*— Provides requirements and guidance to an accountant who is engaged to prepare financial statements for an entity but not engaged to perform a compilation, review, or audit with respect to those financial statements.

Section 80, *Compilation Engagements*— Provides requirements and guidance to an accountant when engaged to perform a compilation engagement on financial statements

Section 90, *Review of Financial Statements*—provides requirements and guidance to an accountant when engaged to review financial statements

The sections of SSARS No. 21 will be codified in AICPA *Professional Standards* as AR-C sections using the same section numbers as SSARS No. 21. For example, section 90 of SSARS No. 21 will be codified in the AICPA *Professional Standards* as AR-C section 90, *Review of Financial Statements*. The pre-clarified AR sections will remain in *Professional Standards* until the clarified standards are fully effective.

Section 60—General Principles for Engagements Performed in Accordance With Statements on Standards for Accounting and Review Services

Section 60 of SSARS No. 21 replaces AR section 60, *Framework for Performing and Reporting on Compilation and Review Engagements* (AICPA, *Professional Standards*), and provides general principles for engagements performed in accordance with SSARSs. Section 60 is intended to help accountants better understand their professional responsibilities when performing engagements in accordance with SSARSs.

An accountant engaged to perform a review, a compilation, or an engagement to prepare financial statements is required to adhere to the requirements in section 60 as well as the requirements in the appropriate engagement section.

Section 60 includes requirements and guidance on the following:

- Ethical requirements
- Professional judgment
- Conduct of the engagement in accordance with SSARSs
- Engagement level quality control
- Acceptance and continuance of client relationships and engagements

Requirement to Obtain a Signed Engagement Letter

The accountant is required to agree upon the terms of the engagement for all SSARSs engagements with management or those charged with governance, as appropriate. The agreed-upon terms of the engagement should be documented in an engagement letter or other suitable form of written agreement. The engagement letter or other suitable form of written agreement should be signed by the accountant or the accountant's firm and management or those charged with governance. The requirement that management sign the engagement letter is intended to better ensure that management has read the letter and understands the terms of the engagement.

Section 70—Preparation of Financial Statements

Section 70 of SSARS No. 21 applies when an accountant in public practice is engaged to prepare financial statements but is not engaged to perform an audit, review, or a compilation on those financial statements. The section does not apply in situations in which the accountant is not in public practice. An engagement to prepare financial statements is a nonattest service; therefore, the accountant is not required to make a determination regarding independence from the entity.

A report is not required—even when financial statements are expected to be used by or presented to a third party. To ensure that users can readily identify that the accountant is not providing any assurance on the financial statements, the accountant should include a statement on each page of the financial statements indicating, at a minimum, that “no assurance is provided” on the financial statements. The accountant’s name need not be included in the statement. Software vendors are already working to include the legend in the accounting software.

If the accountant is unable to include a statement on each page of the financial statements, the accountant is required to either

- issue a disclaimer that makes clear that no assurance is provided on the financial statements or
- perform a compilation engagement in accordance with section 80 of SSARS No. 21.

The determination about whether the accountant has been engaged to prepare financial statements or merely assist in preparing financial statements (which is a bookkeeping service not subject to SSARSs) is based on the services the client requests the accountant to perform and requires the accountant to apply professional judgment. The following table provides examples of services that the accountant may be engaged to perform and notes whether section 70 of SSARS No. 21 would apply. The table is not intended to be all inclusive and professional judgment still needs to be applied.

Examples of Services for Which Section 70 Applies	Examples of Accountant Services for Which Section 70 Does Not Apply
Preparing financial statements prior to audit or review by another accountant	Preparing financial statements when the accountant is engaged to perform an audit, review, or compilation of such financial statements
Preparing financial statements that are not expected to be used by a third party (management-use only financial statements)	
	Preparing financial statements solely for submission to taxing authorities
	Preparing personal financial statements for inclusion in written personal financial plans prepared by the accountant
	Preparing financial statements in conjunction with litigation services that involve pending or potential legal or regulatory proceedings
	Preparing financial statements in conjunction with business valuation services
	Maintaining depreciation schedules
	Preparing or proposing certain adjustments, such as those applicable to deferred income taxes, depreciation, or leases

Preparing a single financial statement, such as a balance sheet or financial statements with substantially all disclosures omitted	Drafting financial statement notes
Using the information in a general ledger to prepare financial statements outside of an accounting software system	Entering general ledger transactions or processing payments (general bookkeeping) in an accounting software system

Section 80—Compilation Engagements

Section 80 of SSARS No. 21 modifies the applicability of the compilation literature. Pre-clarity AR section 80, *Compilation of Financial Statements* (AICPA, *Professional Standards*) applies when an accountant is either

- engaged to report on compiled financial statements or
- *submits* financial statements to the client or to third parties.

Submission is defined as “prepares and presents.” Section 80 of SSARS No. 21 eliminates the need for the accountant to determine who prepared the financial statements by eliminating the submission requirement and making the compilation literature apply when the accountant is *engaged* to perform a compilation service.

The primary changes in the compilation literature include the following:

- A report is now required for all compilation engagements
 - It is no longer necessary to have the non-reporting exception that was previously afforded for financial statements that were prepared and presented by an accountant to management that were not intended for third party use. Such engagements will be covered by section 70.
- The compilation report is now streamlined to differentiate from assurance (review and audit) reports consisting of one paragraph with no headings.
- Additional paragraphs are required when
 - the financial statements are prepared in accordance with a special purpose framework.
 - management elects to omit substantially all disclosures required by the applicable financial reporting framework.
 - when the accountant’s independence is impaired.
 - there is a known departure from the applicable financial reporting framework.
 - supplementary information accompanies the financial statements and the accountant’s compilation report thereon.

Section 90—Review of Financial Statements

Section 90 of SSARS No. 21 is primarily a clarity redraft of the pre-clarity review literature with very few changes.

SSARS No. 21 does make clear that section 90 may be applied to historical financial information other than historical financial statements, such as specified elements, accounts, or items of a financial statement; supplementary information; required supplementary information; and financial information included in a tax return.

The accountant’s review report will look different as SSARS No. 21 requires the use of headings in the report. The accountant is also required to name the city and state of the issuing office. The

requirement will be met if the accountant's review report is presented on the accountant's letterhead and the letterhead contains the city and state of the issuing office.

Although pre-clarity AR section 90, *Review of Financial Statements* (AICPA, *Professional Standards*), states that emphasis paragraphs are never required, section 90 of SSARS No. 21 requires the accountant to include an emphasis-of-matter or other-matter paragraph in the accountant's review report relating to the following matters:

- Financial statements prepared in accordance with a special purpose framework
- A changed reference to a departure from the applicable financial reporting framework when reporting on comparative financial statements
- Reporting on comparative financial statements when the prior period is audited
- Reporting a known departure from the applicable financial reporting framework that is material to the financial statements
- Reporting when management revises financial statements for a subsequently discovered fact that became known to the accountant after the report release date and the accountant's review report on the revised financial statements differs from the accountant's review report on the original financial statements
- Supplementary information that accompanies reviewed financial statements and the accountant's review report thereon
- Required supplementary information

Section 90 of SSARS No. 21 introduces the requirement that the accountant include an other-matter paragraph in the accountant's review report when the accountant considers it necessary to communicate a matter other than those that are presented or disclosed in the financial statements that, in the accountant's professional judgment, is relevant to the users' understanding of the review, the accountant's responsibilities, or the accountant's review report.

In addition, section 90 of SSARS No. 21 requires the accountant to include an emphasis-of-matter paragraph in the accountant's review report when the accountant considers it necessary to draw users' attention to a matter appropriately presented or disclosed in the financial statements that, in the accountant's professional judgment, is of such importance that it is fundamental to the user's understanding of the financial statements, provided that the accountant does not believe that the financial statements may be materially misstated.

If the accountant expects to include an emphasis-of-matter or other-matter paragraph in the accountant's review report, section 90 of SSARS No. 21 requires the accountant to communicate with management regarding this expectation and the proposed wording of this paragraph.

Pre-clarity AR Sections

SSARS No. 21 will supersede all pre-clarity AR sections in AICPA *Professional Standards*, with the exception of AR section 120, *Compilation of Pro Forma Financial Information* (AICPA, *Professional Standards*). AR section 120 will be superseded by an additional clarity SSARS at a future date.

Other Helpful Information and Resources

The AICPA Audit & Attest Standards Team maintains a web page dedicated to the ARSC Clarity Project, which contains valuable implementation resources for SSARS No. 21. The web page is available at <http://www.aicpa.org/SSARSClarity>. The web page will be updated frequently so, please check back often.

Additionally, AICPA Risk Alert *Developments in Review, Compilation, and Financial Statement Preparation Engagements—2014/15* serves as a valuable information resource and is available from the AICPA store at <http://www.cpa2biz.com/ssars21>.

Also, the AICPA Accounting and Auditing Technical Hotline is available for any questions that you may have. You can reach the Hotline at 877.242.7212, via e-mail at techinquiry@aicpa.org, and on the web at <http://www.aicpa.org/Research/TechnicalHotline/Pages/TechnicalHotline.aspx>

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Excerpt from SSARS No. 21

40 Statement on Standards for Accounting and Review Services No. 21

.A20

Exhibit—Illustrative Engagement Letter

(Ref: par. .A9)

The following is an example of an engagement letter for an engagement to prepare financial statements prepared in accordance with accounting principles generally accepted in the United States of America. This engagement letter is intended as an illustration that may be used in conjunction with the considerations outlined in Statements on Standards for Accounting and Review Services. The engagement letter will vary according to individual requirements and circumstances and is drafted to refer to the preparation of financial statements for a single reporting period. The accountant may seek legal advice about whether a proposed letter is suitable.

To the appropriate representative of ABC Company:¹

You² have requested that we prepare the financial statements of ABC Company, which comprise the balance sheet as of December 31, 20XX, and the related statements of income, changes in stockholders' equity, and cash flows for the year then ended and the related notes to the financial statements.^{3, 4} We are pleased to confirm our acceptance and our understanding of this engagement to prepare the financial statements of ABC Company by means of this letter.

Our Responsibilities

The objective of our engagement is to prepare financial statements in accordance with accounting principles generally accepted in the

1. The addresses and references in the engagement letter would be those that are appropriate in the circumstances of the engagement to prepare financial statements, including the relevant jurisdiction. It is important to refer to the appropriate persons. See paragraph .A8.

2. Throughout this engagement letter, references to *you, we, us, management, and accountant* would be used or amended as appropriate in the circumstances.

3. If the accountant is to be engaged to prepare financial statements that omit the statement of cash flows and the related notes, the sentence may be revised to read, "You have requested that we prepare the financial statements of ABC Company, which comprise the balance sheet as of December 31, 20XX, and the related statements of income and changes in stockholders' equity." The following additional sentence may then be added: "These financial statements will not include a statement of cash flows and related notes to the financial statements."

4. The accountant may include other nonattest services to be performed as part of the engagement, such as income tax preparation and bookkeeping services.

United States of America based on information provided by you. We will conduct our engagement in accordance with Statements on Standards for Accounting and Review Services (SSARSs) promulgated by the Accounting and Review Services Committee of the AICPA and comply with the AICPA's Code of Professional Conduct, including the ethical principles of integrity, objectivity, professional competence, and due care.

We are not required to, and will not, verify the accuracy or completeness of the information you will provide to us for the engagement or otherwise gather evidence for the purpose of expressing an opinion or a conclusion. Accordingly, we will not express an opinion or a conclusion or provide any assurance on the financial statements.

Our engagement cannot be relied upon to identify or disclose any financial statement misstatements, including those caused by fraud or error, or to identify or disclose any wrongdoing within the entity or noncompliance with laws and regulations.

Management Responsibilities

The engagement to be performed is conducted on the basis that management acknowledges and understands that our role is to prepare financial statements in accordance with accounting principles generally accepted in the United States of America. Management has the following overall responsibilities that are fundamental to our undertaking the engagement to prepare your financial statements in accordance with SSARSs:

- a.* The prevention and detection of fraud
- b.* To ensure that the entity complies with the laws and regulations applicable to its activities
- c.* The accuracy and completeness of the records, documents, explanations, and other information, including significant judgments, you provide to us for the engagement to prepare financial statements
- d.* To provide us with:
 - i.* Documentation, and other related information that is relevant to the preparation and presentation of the financial statements,

- ii. Additional information that may be requested for the purpose of the preparation of the financial statements, and
- iii. Unrestricted access to persons within ABC Company of whom we determine necessary to communicate.

The financial statements will not be accompanied by a report. However, you agree that the financial statements will clearly indicate that no assurance is provided on them.

[If the accountant expects to issue a disclaimer, instead of the preceding paragraph, the following may be added:

As part of our engagement, we will issue a disclaimer that will state that the financial statements were not subjected to an audit, review, or compilation engagement by us and, accordingly, we do not express an opinion, a conclusion, nor provide any assurance on them.]

Other Relevant Information

Our fees for these services

[The accountant may include language, such as the following, regarding limitation of, or other arrangements regarding, the liability of the accountant or the entity, such as indemnification to the accountant for liability arising from knowing misrepresentations to the accountant by management (regulators may restrict or prohibit such liability limitation arrangements):

You agree to hold us harmless and to release, indemnify, and defend us from any liability or costs, including attorney's fees, resulting from management's knowing misrepresentations to us.]

Please sign and return the attached copy of this letter to indicate your acknowledgement of, and agreement with, the arrangements for our engagement to prepare the financial statements described herein, and our respective responsibilities.

Sincerely yours,

[Signature of accountant or accountant's firm]

Acknowledged and agreed on behalf of ABC Company by:

[Signed]
[Name and Title]

[Date]

Attachment 6

October 28, 2015

California Board of Accountancy
c/o Mr. Ben Simcox

Re: SSARS 21

I appreciate the opportunity to provide input on SSARS 21, specifically regarding the new "Preparation Engagements."

STATEMENT ON STANDARDS FOR ACCOUNTING AND REVIEW STANDARDS No. 21

SSARS 21 consists of four sections, however only Section 60 and Section 70 are relevant in the discussion of Preparation Engagements.

Section 60 – *General Principles for Engagements Performed in Accordance with SSARS*, is intended to help accountants better understand their Professional Responsibilities when performing a review, compilation or an engagement to prepare financial statements. Briefly these professional responsibilities are outlined as:

- ETHICAL REQUIREMENTS
- PROFESSIONAL JUDGMENT – training, knowledge, experience and ethics
- FOLLOW SSARS AND AICPA PROFESSIONAL STANDARDS
- ENGAGEMENT LEVEL QUALITY CONTROL
- ACCEPTANCE/CONTINUANCE OF CLIENTS AND ENGAGEMENTS
- SIGNED ENGAGEMENT LETTER

Section 60 requires pages 6 through 26 of SSARS 21 to fully address the Professional Responsibilities.

Under **Engagement Level Quality Control**, paragraph .20 states, "In an engagement performed in accordance with SSARS, the engagement partner should take responsibility for the following:

b. The direction, supervision, planning and performance of the engagement..."

This language closely mirrors the language in CBA Reg. Section 87(d), which begins, "A licensee who engages in planning, directing, performing substantial portions of the work, or reporting on an audit review, compilation, or attestation service, shall complete 24 hours..." There is some linkage between an accountant's professional responsibilities under SSARS and the CBA CPE requirements.

In **Section 70 – Preparation of Financial Statements**, .06 states, “The objective of the accountant is to prepare financial statements pursuant to a specified **financial reporting framework**. Section 70. occupies pages 26 through 46 of SSARS 21.

The **Applicable Financial Reporting Framework** is defined as, “The financial reporting framework adopted by management...in the preparation and fair presentation of the financial statements that is acceptable in the view of the nature of the entity and the objective of the financial statements...”

Examples of Financial Reporting Frameworks include:

- GENERALLY ACCEPTED ACCOUNTING PRINCIPLES
- INTERNATIONAL FINANCIAL REPORTING STANDARDS
- OTHER COMPREHENSIVE BASIS OF ACCOUNTING- tax, regulatory, cash, other
- PROSPECTIVE FINANCIAL INFORMATION

It is important to note that the form and content of financial statements prepared in accordance with the above frameworks should not vary whether or not an accountant’s compilation report is attached. The form, content and fair presentation of financial statements can be extremely complex and may include complicated financial transactions, such as: estimates, other comprehensive income, deferred tax assets and liabilities, alternate investments and supplementary information, etc. Even though financial statements prepared pursuant to Section 70 are not for third party use, the financials must still be prepared in accordance with the requirements of the chosen framework.

Section 70.12 states, “The accountant should obtain an understanding of the financial reporting framework and the significant accounting policies intended to be used in the preparation of the financial statements.” .A10 further adds that, “The accountant may obtain such understanding, for example, by consulting AICPA guides, industry publications, financial statements of other entities in the industry, textbooks and periodicals, appropriate continuing professional education, or individuals who are knowledgeable about the industry.”

OTHER CONSIDERATIONS

In May 2015, the U.S. Department of Labor issued its report **Assessing the Quality of Employee Plan Audits**, which outlined numerous deficiencies found in the audits studied. In the Recommendations section, the report notes, “When auditors have to issue a formal and unqualified opinion, they have a powerful incentive to rigorously adhere to professional standards ensuring that their opinion can withstand scrutiny. The limited scope audit exemption undermines this incentive by removing auditors’ obligations to stand behind the plans’ financial statements.” With that in mind, what incentive does an accountant have to rigorously adhere to professional standards when they don’t have to issue any report at all and are not subject to peer review, as is the case in preparation engagements?

OTHER CONSIDERATIONS (Cont'd)

SSARS 21 applies to a wide variety of entities, from tax basis financials for small businesses to GAAP financials for large corporate or partnership business entities with sophisticated and complex financial transactions and reporting requirements. Unfortunately, SSARS 21 applies equally to all entities, whether they require preparation of simple or complex financial statements.

My understanding is that preparation engagements may be performed by General "G" licensees and that a G licensee can currently perform the preparation of simple or extremely complex financial statements without having to comply with the 24 hours of A&A CPE. Is it likely that such licensees may find themselves in over their heads from a technical perspective?

It is also possible that those consumers who contract for a preparation engagement rather than a compilation might be the most unsophisticated financial statement users who need their CPA to help them choose and understand an appropriate financial reporting framework. Can a CPA who does not have ongoing technical training meet the consumers' needs?

CONTINUING PROFESSIONAL EDUCATION

The issues are whether the 24 hours of accounting and auditing CPE (Section 87(d)) should be required for those licensees whose highest level of service is the preparation of financial statements pursuant to Section 70, and whether those licensees should be required to satisfy the fraud CPE requirements of Section 87(e).

CONCLUSIONS

I believe there are two different types of technical requirements for preparers of financial statements. First, is compliance with the technical requirements of SSARS 21 itself. Second, is the actual technical preparation of financial statements in accordance with an applicable financial framework. As outlined above, these demands are not insignificant. I also believe that fraud is pervasive in all types of accounting and financial transactions.

Licensees who prepare financial statements should be made to comply with Section 87(d), and all active licensees, regardless of the types of services rendered, should be required to attend appropriate fraud training of Section 87(e).

Yours very truly,



Robert J. Ruehl CPA



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CPC Item III.
November 19, 2015

CBA Item XI.B.3.
November 19, 2015

Update on the Study of California's Attest Experience Requirement

Presented by: Gina Sanchez, Chief, Licensing Division

Consumer Protection Objectives

The purpose of this agenda item is to provide the California Board of Accountancy (CBA) with an update on the progress of the study of California's 500-hour attest experience requirement for certified public accountant (CPA) licensure. The attest study was conducted to gather feedback regarding whether granting attest authority to only qualified licensees is still an effective way to ensure consumer protection.

Action(s) Needed

No specific action is required on this agenda item.

Background

At its January 2015 meeting, the CBA decided to move forward with the study of California's attest experience requirement. On May 20, 2015, phase two of the attest study contract was approved. CPS HR Consulting (CPS HR) began working on building the study in its online survey system – Qualtrics. On July 14, 2015, the attest study was released in a pre-testing environment to a limited number of individual stakeholders (approximately 300), which were randomly selected from the targeted audiences in order to assess the reliability of each survey question and ensure that each question was interpreted correctly by stakeholders.

Following the close of the pre-test, staff and CPS HR examined the results and determined that no revisions to the survey were necessary. The full attest study survey officially launched on August 11, 2015 with a closing date of October 31, 2015.

Comments

In an effort to obtain a high volume of participation, staff employed several methods of outreach via the CBA website, social media, UPDATE articles, E-News, press releases, letters/mailers, and partnerships with outside agencies such as the California Society of CPAs and the National Association of State Boards of Accountancy. The study was also disseminated to other state boards of accountancy.

Since closure of the attest study survey on October 31, 2015, preliminary data shows there were 10,162 total responses received. The following reflects the response rates

Update on the Study of California's Attest Experience Requirement

Page 2 of 2

for each of the targeted stakeholder audiences, including the total percentage of responses for each audience population:

- New licensees (licensed three years or less): 1,418 (13.8%)
- Hiring managers/signers of the Certificate of Attest Experience form: 173 (24.1%)
- Experienced licensees (licensed between 10-20 years): 2,508 (12.4%)
- Pending applicants for CPA licensure: 338 (27.1%)
- University accounting programs/faculty: 48 (32.9%)
- Consumers: 37 (% unknown)

Total responses from targeted stakeholder audiences: 4,522 (13.9%)

The remaining 5,640 responses were received by either licensees who did not fall within one of the specific targeted audience groups, or noted their category as "Other."

The CBA also received 35 survey responses from the other 54 state boards of accountancy/jurisdictions.

In early 2016, the CBA will receive a comprehensive report of the study and begin deliberation on the attest experience requirement for CPA licensure and determine whether changes, if any, are needed.

Fiscal/Economic Impact Considerations

There are no fiscal/economic impact considerations.

Recommendation

Staff have no recommendation on this agenda item, but value feedback from members regarding the progress of the study.

Attachment

None.



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CBA Item XII.A.
 November 19, 2015

DEPARTMENT OF CONSUMER AFFAIRS
 CALIFORNIA BOARD OF ACCOUNTANCY (CBA)

MINUTES OF THE
September 17-18, 2015
CBA MEETING

DRAFT

Wyndham Irvine-Orange County Airport
 17941 Von Karman Avenue
 Irvine, CA 92614
 Telephone: (949) 863-1999

Roll Call and Call to Order.

CBA President Jose Campos called the meeting to order at 10:40 a.m. on Thursday, September 17, 2015 at the Wyndham Orange County Airport. The CBA convened into closed at 2:51 p.m. and recessed the meeting at 4:22 p.m. The meeting reconvened into open session on Friday, September 18, 2015 at 9:04 a.m. The CBA reconvened into closed session from 11:50 a.m. until 1:24 p.m., at which time the CBA reconvened and President Campos adjourned the meeting.

CBA Members

September 17, 2015

Jose Campos, CPA, President	10:40 a.m. to 4:22 p.m.
Katrina Salazar, CPA, Vice-President	10:40 a.m. to 4:22 p.m.
Alicia Berhow, Secretary/Treasurer	10:40 a.m. to 4:22 p.m.
Sarah (Sally) Anderson, CPA	10:40 a.m. to 4:22 p.m.
Herschel Elkins, Esq.	10:40 a.m. to 4:22 p.m.
Laurence (Larry) Kaplan	10:40 a.m. to 4:22 p.m.
Louise Kirkbride	Absent
Kay Ko	10:40 a.m. to 4:22 p.m.
Leslie LaManna, CPA	10:40 a.m. to 4:22 p.m.
Xochitl León	10:40 a.m. to 4:22 p.m.
Jian Ou-Yang, CPA	10:40 a.m. to 4:22 p.m.
Deidre Robinson	10:40 a.m. to 4:22 p.m.
Michael Savoy, CPA	10:40 a.m. to 4:22 p.m.
Mark Silverman, Esq.	10:40 a.m. to 4:22 p.m.
Kathleen Wright, CPA	10:40 a.m. to 4:22 p.m.

CBA Members

September 18, 2015

Jose Campos, CPA, President	9:04 a.m. to 1:24 p.m.
Katrina Salazar, CPA, Vice-President	9:04 a.m. to 1:24 p.m.
Alicia Berhow, Secretary/Treasurer	9:04 a.m. to 1:24 p.m.
Sarah (Sally) Anderson, CPA	9:04 a.m. to 1:24 p.m.
Herschel Elkins, Esq.	9:04 a.m. to 1:24 p.m.
Laurence (Larry) Kaplan	9:04 a.m. to 1:24 p.m.
Louise Kirkbride	Absent
Kay Ko	9:04 a.m. to 1:24 p.m.
Leslie LaManna, CPA	9:04 a.m. to 1:24 p.m.
Xochitl León	9:04 a.m. to 1:24 p.m.
Jian Ou-Yang, CPA	9:04 a.m. to 1:24 p.m.
Deidre Robinson	9:04 a.m. to 1:24 p.m.
Michael Savoy, CPA	9:04 a.m. to 1:24 p.m.
Mark Silverman, Esq.	9:04 a.m. to 1:24 p.m.
Kathleen Wright, CPA	9:04 a.m. to 1:24 p.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
Dorothy Osgood, Enforcement Supervising ICPA
Corey Riordan, Board Relations Analyst
Gina Sanchez, Chief, Licensing Division
Matthew Stanley Information and Planning Officer
Kristy Schieldge, Legal Counsel, Department of Consumer Affairs (DCA)
Carl Sonne, Deputy Attorney General, Department of Justice (DOJ)

Committee Chairs and Members

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

Other Participants

Donald Driftmier, Mobilty Stakeholder Group
Jason Fox, California Society of Certified Public Accountants
Stacey Grooms, Regulatory Affairs Manager, National Association of State
Boards of Accountancy
Pilar Oñate-Quintana, KP Public Affairs
Vince H. Nafarrete, Administrative Law Judge, Office of Administrative

Hearings
Joseph Petito, The Accountants Coalition
Jon Ross, KP Public Affairs

I. Report of the President.

A. Announcement Regarding Annual Officer Elections.

President Campos announced that the annual officer elections will be held at the November CBA meeting. He stated that any member interested in a leadership position should submit a statement of qualifications to CBA staff.

B. Announcement of California Board of Accountancy Leadership Award of Excellence.

Mr. Campos announced that the recipients of the CBA Leadership Award of Excellence are Rebecca Reed, License Renewal Analyst, and Corey Riordan, Board Relations Analyst.

C. Presentations and Speaking Events for CBA Members.

Mr. Campos reported that the CBA has participated in many outreach events throughout the year, and he thanked California Society of CPAs for inviting the CBA to speak at various events. He also noted that he will be speaking at the National Association of State Boards of Accountancy's 108th Annual Meeting.

D. Resolutions for Retiring Qualifications Committee Member Erin Sacco Pineda.

It was moved by Ms. Salazar and seconded by Ms. Berhow to approve the resolution for retiring Qualifications Committee member Erin Sacco Pineda.

Yes: Ms. Anderson, Ms. Berhow, Mr. Campos, Mr. Elkins, Mr. Kaplan, Ms. Ko, Ms. LaManna, Ms. León, Mr. Ou-Yang, Ms. Robinson, Ms. Salazar, Mr. Savoy, Mr. Silverman, and Ms. Wright.

No: None.

Abstain: None.

Absent: None.

The motion passed.

E. Announcement of the Annual Executive Officer Evaluation.

Mr. Campos announced that the CBA will be meeting in closed session at the November CBA meeting to discuss the annual Executive Officer evaluation. He requested that members complete the evaluation form and return the form to his attention, as they will be used during the discussion.

F. Review and Possible Approval of the California Board of Accountancy's Comment Letter Regarding Statement on Standards for Continuing Professional Education Programs Exposure Draft.

Ms. Sanchez reported that at the July CBA meeting, the CBA was presented with the Exposure Draft on Statement on Standards for Continuing Professional Education Programs. At that time, the CBA directed staff to prepare a comment letter in response to the exposure draft. She noted the letter presented for member consideration highlights the CBA's support of the exploration of the new methodologies designed to expand the licensee's knowledge and competency.

It was moved by Mr. Elkins and seconded by Ms. Salazar to approve and submit the comment letter prior to the comment period deadline.

Yes: Ms. Anderson, Ms. Berhow, Mr. Campos, Mr. Elkins, Mr. Kaplan, Ms. Ko, Ms. LaManna, Ms. León, Mr. Ou-Yang, Ms. Robinson, Ms. Salazar, Mr. Savoy, Mr. Silverman, and Ms. Wright.

No: None.

Abstain: None.

Absent: None.

The motion passed.

G. Educational Presentation and Discussion Regarding the California Board of Accountancy's Role in Petition Hearings.

Ms. Schieldge and Mr. Sonne provided a presentation regarding the CBA's role in petition hearings.

H. Discussion and Next Steps Regarding Audit Quality for Audits Performed for Employee Benefit Plans Covered Under the Employee Retirement Income Security Act of 1974.

Mr. Campos stated that he would be assigning the Committee on Professional Conduct (CPC) to further study the topic of audit quality for

audits performed for employee benefit plans covered under the Employee Retirement Income Security Act and issue any recommendations it may have to the CBA. Mr. Campos stated that the Department of Labor will be invited to a CBA meeting to provide its direct viewpoints regarding the matter.

Ms. LaManna suggested inviting an American Institute of Certified Public Accountants (AICPA) Ethics Committee member to attend a CBA meeting to provide information on what types of errors are being made and what can be done to improve the audits.

I. DCA Director's Report.

There was no report on this agenda item.

II. Report of the Vice-President.

A. Recommendations for Appointment(s)/Reappointments to the Enforcement Advisory Committee.

There was no report on this agenda item.

B. Recommendations for Appointment(s)/Reappointment(s) to the Qualifications Committee.

There was no report on this agenda item.

C. Recommendations for Appointment(s)/Reappointment(s) to the Peer Review Committee.

It was moved by Ms. Salazar and seconded by Ms. Ko to reappoint Robert Lee, CPA, Peer Review Oversight Committee (PROC) member for a two-year term, effective October 1, 2015 until September 30, 2017.

Yes: Ms. Anderson, Ms. Berhow, Mr. Campos, Mr. Elkins, Mr. Kaplan, Ms. Ko, Ms. LaManna, Ms. León, Mr. Ou-Yang, Ms. Robinson, Ms. Salazar, Mr. Savoy, Mr. Silverman, and Ms. Wright.

No: None.

Abstain: None.

Absent: None.

The motion passed.

III. Report of the Secretary/Treasurer.

A. Fiscal Year 2014-15 Year End Financial Statement and Governor's Budget.

Ms. Berhow provided an overview of this agenda item. She stated that the CBA collected approximately \$5.3 million in total receipts. She noted that revenues were 48 percent less than Fiscal Year (FY) 2013-14 due to the fee reductions. Lastly, she stated that the Department of Finance Released its Loan Obligation Report, which identifies target dates for the general fund loan repayments, including the CBA's repayment of \$6 million in FY 2015-16, \$270,000 in FY 2016-17, and \$11 million in FY 2017-18.

IV. Report of the Executive Officer.

A. Update on the Relocation of the California Board of Accountancy's Office.

Ms. Bowers stated that the relocation will be at the end of the year or beginning of next year, depending on construction.

B. Update on Staffing.

Ms. Bowers announced that Matthew Stanley has been promoted to serve as the Information and Planning Officer and Angela Crawford, the Executive Secretary, was promoted to serve as the Business Relations Analyst.

C. Presentation of the California Board of Accountancy Annual Report for Fiscal Year 2014-15.

Ms. Bowers thanked the staff and senior management for all their hard work.

Ms. Pearce provided an overview of the CBA Annual Report. She highlighted key topics including strategic planning activities, the stakeholder satisfaction survey results, the CBA's sunset review, outreach, enforcement, and licensing.

D. Discussion and Possible Action Regarding Legislation on Which the California Board of Accountancy Has Taken a Position (AB 85, SB 8, SB 467, SB 799, AB 750, AB 1351, and AB 1352).

Mr. Stanley provided an overview of the item. He stated that Assembly Bill (AB) 85, AB 1351, AB 1352, and SB 467 were sent to the Governor. He stated that AB 750 and SB 8 will continue as two-year bills and the CBA will continue to follow the bills. Lastly, Mr. Stanley stated that SB

799 was gutted-and-amended and was no longer relevant to the CBA.

It was moved by Ms. Salazar and seconded by Ms. Berhow to discontinue following SB 799.

Yes: Ms. Anderson, Ms. Berhow, Mr. Campos, Mr. Elkins, Mr. Kaplan, Ms. Ko, Ms. LaManna, Ms. León, Mr. Ou-Yang, Ms. Robinson, Ms. Salazar, Mr. Savoy, Mr. Silverman, and Ms. Wright.

No: None.

Abstain: None.

Absent: None.

The motion passed.

- E. Additional Legislation Impacting the California Board of Accountancy Identified by Staff After the Posting of the Meeting Notice.

Mr. Stanley provided an overview of this agenda item. He stated that AB 181 was amended to include the CBA's omnibus provisions.

It was moved by Ms. Berhow and seconded by Mr. Kaplan to take a Support position on AB 181.

Yes: Ms. Anderson, Ms. Berhow, Mr. Campos, Mr. Elkins, Mr. Kaplan, Ms. Ko, Ms. LaManna, Ms. León, Mr. Ou-Yang, Ms. Robinson, Ms. Salazar, Mr. Savoy, Mr. Silverman, and Ms. Wright.

No: None.

Abstain: None.

Absent: None.

The motion passed.

- F. Update on the California Board of Accountancy 2013-2015 Communications and Outreach Plan.

There were no comments on this item.

- V. Report on the Enforcement Advisory Committee, Qualifications Committee, and the Peer Review Oversight Committee.

- A. Enforcement Advisory Committee.

There was no report on this agenda item.

B. Qualifications Committee.

1. Report of the July 29, 2015 Qualifications Committee Meeting.

Mr. Ruehl thanked Ms. Ko and Mr. Kaplan for attending the Qualifications Committee (QC) meeting. Mr. Ruehl stated that the QC preformed an internal audit on 100 files and concurred with staff's assessment. He reported that the QC held a sub-committee meeting where 13 reviews were conducted with eight approved and five deferred.

2. Approval of the 2016 Qualifications Committee Meeting Dates.

It was moved by Ms. Anderson and seconded by Ms. LaManna to approve the 2016 QC meeting dates.

Yes: Ms. Anderson, Mr. Campos, Mr. Elkins, Mr. Kaplan, Ms. Ko, Ms. LaManna, Ms. León, Mr. Ou-Yang, Ms. Robinson, Ms. Salazar, Mr. Savoy, and Ms. Wright.

No: None.

Abstain: None.

Absent: Ms. Berhow and Mr. Silverman.

The motion passed.

C. Peer Review Oversight Committee.

1. Report of the August 21, 2015 Peer Review Oversight Committee Meeting.

Mr. Lee thanked Ms. Salazar for attending the Peer Review Oversight Committee (PROC) meeting. He reported that the committee discussed the Department of Labor's report on audit quality, the potential topics for the PROC Annual Report, and the member's oversight activities.

2. Approval of the 2016 Peer Review Oversight Committee Meeting Dates.

It was moved by Ms. Salazar and seconded by Ms. Robinson to approve the 2016 PROC meeting dates.

Yes: Ms. Anderson, Mr. Campos, Mr. Elkins, Mr. Kaplan, Ms. Ko, Ms. LaManna, Ms. León, Mr. Ou-Yang, Ms. Robinson, Ms. Salazar, Mr. Savoy, Mr. Silverman, and Ms. Wright.

No: None.

Abstain: Ms. Berhow.

Absent: None.

The motion passed.

VI. Report of the Enforcement Chief.

A. Report on Enforcement Division Activity.

Mr. Franzella provided an overview of this agenda item. Mr. Franzella stated that the CBA received 2,702 complaints for FY 2014-15 and 148 complaints so far for FY 2015-16. He stated that in FY 2014-15, 63 matters that were referred to the Attorney General's Office were closed via discipline. Mr. Franzella noted that staff have 22 probation orientation meetings scheduled for October.

VII. Report of the Licensing Chief.

A. Licensing Activity Report.

Ms. Sanchez provided an overview of this agenda item. Ms. Sanchez provided information regarding historical data over the past 10 years, including the number of licensees, number of first-time sitter examination applications, and the number of applications for licensure. She stated that the examination and initial licensing units were meeting the processing timeframes for completed applications. Ms. Sanchez noted that the examination unit processed 1,471 first-time sitter applications during the month of July, which exceeded the previous high from July of 2012 by more than 230 applications.

VIII. Committee Reports.

A. Strategic Planning Committee.

1. Report of the September 17, 2015 Strategic Planning Committee.
2. Discussion and Possible Approval of the Draft 2016-2018 California Board of Accountancy Strategic Plan.

Ms. Berhow reported that staff presented the draft 2016-2018 Strategic Plan, which was developed from the input received by the CBA during the Strategic Plan Workshop in July.

The Strategic Planning Committee recommended that the CBA approve the draft 2016-18 Strategic Plan.

Yes: Ms. Anderson, Ms. Berhow, Mr. Campos, Mr. Elkins, Mr. Kaplan, Ms. Ko, Ms. LaManna, Ms. León, Mr. Ou-Yang, Ms. Robinson, Ms. Salazar, Mr. Savoy, Mr. Silverman, and Ms. Wright.

No: None.

Abstain: None.

Absent: None.

The motion passed.

B. Committee on Professional Conduct.

1. Report of the September 17, 2015 Committee on Professional Conduct Meeting.
2. Discussion and Possible Action to Seek Legislation to Amend Business and Professions Code Section (BPC) 5094.3 Relating to the Ethics Study Educational Requirement.

Ms. LaManna reported that the CPC was provided with proposed amendments to BPC section 5094.3, which requires an applicant for licensure to complete 10 semester units or 15 quarter units of ethics study by requiring the course title to contain specific words. She stated that the proposed amendments will allow courses taken in the listed subject areas to count towards the ethics requirement rather than needing to contain specific words in the course title.

The CPC recommended that the CBA approve the proposed language and seek its inclusion in the 2016 omnibus bill, or if it is not accepted as part of the omnibus legislation, seek an author to pursue amendments.

Yes: Ms. Anderson, Ms. Berhow, Mr. Campos, Mr. Elkins, Mr. Kaplan, Ms. Ko, Ms. LaManna, Ms. León, Mr. Ou-Yang, Ms. Robinson, Ms. Salazar, Mr. Savoy, Mr. Silverman, and Ms. Wright.

No: None.

Abstain: None.

Absent: None.

The motion passed.

3. Discussion Regarding Proposed Changes to California Code of Regulations Section 9.1 – Approved Credentials Evaluation Service Status.

Ms. LaManna reported that the CPC reviewed the proposed changes to CBA Regulations section 9.1. She stated that the proposed language added specificity and standardization to the format of the application process for evaluation services, which will enhance the CBA's oversight of the services.

Yes: Ms. Anderson, Ms. Berhow, Mr. Campos, Mr. Elkins, Mr. Kaplan, Ms. Ko, Ms. LaManna, Ms. León, Mr. Ou-Yang, Ms. Robinson, Ms. Salazar, Mr. Savoy, Mr. Silverman, and Ms. Wright.

No: None.

Abstain: None.

Absent: None.

The motion passed.

4. Discussion and Possible Action to Initiate a Rulemaking to Amend Title 16, California Code of Regulations Section 87 – Continuing Education Requirements.

Ms. LaManna reported that the CPC was provided with an opportunity to discuss how the release of the AICPA's Statement on Standards for Accounting and Review Services (SSARS) No. 21 may impact the Accounting and Auditing (A&A) continuing education (CE) requirement. Ms. LaManna stated that the CPC discussed whether the A&A CE requirement should be amended due to SSARS 21.

The CPC recommended that the CBA make no changes to the current regulations.

Mr. Campos inquired if individuals that complete financial statement preparation work are required to have an attest license.

Mr. Franzella stated that the attest license does not include compilations or preparation engagements and a licensee with a general license can perform preparation statements.

Yes: Ms. Anderson, Ms. Berhow, Ms. LaManna, Mr. Ou-Yang, and Mr. Silverman.

No: Mr. Campos, Ms. Robinson, Ms. Salazar, Mr. Savoy, and Ms. Wright.

Abstain: Mr. Elkins, Mr. Kaplan, Ms. Ko, and Ms. León.

Absent: None.

The motion failed.

It was moved by Ms. Anderson and seconded by Mr. Elkins to direct staff to provide additional information to the CPC, including determining who relies on the preparation of the financial statements and reaching out to the author.

Yes: Ms. Anderson, Ms. Berhow, Mr. Campos, Mr. Elkins, Mr. Kaplan, Ms. Ko, Ms. LaManna, Ms. León, Mr. Ou-Yang, Ms. Robinson, Ms. Salazar, Mr. Savoy, Mr. Silverman, and Ms. Wright.

No: None.

Abstain: None.

Absent: None.

The motion passed.

5. Discussion to Explore Methods to Identify Sole Proprietorships for California Board of Accountancy Peer Review Reports and Other Reporting Purposes.

Ms. LaManna reported that the CPC discussed possible methods to identify sole proprietorships. She noted that staff proposed two possible methods, full registration as a new license type and a tracking method, to identify sole proprietorships and the CPC discussed the advantages and disadvantages associated with each method.

The CPC recommended that the CBA choose to track sole proprietorships and direct staff to draft regulatory language for

consideration.

Yes: Ms. Anderson, Ms. Berhow, Mr. Campos, Mr. Elkins, Mr. Kaplan, Ms. Ko, Ms. LaManna, Ms. León, Mr. Ou-Yang, Ms. Robinson, Ms. Salazar, Mr. Savoy, Mr. Silverman, and Ms. Wright.

No: None.

Abstain: None.

Absent: None.

The motion passed.

6. Update on the Study of California's Attest Experience Requirement.

Ms. LaManna reported that staff provided an update on the progress of the study of California's 500-hour attest experience requirement for CPA licensure. She stated that, after the August 11, 2015 launch, staff have employed methods of outreach in an effort to obtain the highest amount of participation. Ms. LaManna noted that the survey will close on October 31, 2015 and the survey data will be presented to the CBA at the November meeting.

C. Mobility Stakeholder Group (MSG).

1. Report of the September 17, 2015 MSG Meeting.
2. The Mobility Stakeholder Group Decision Matrix and Stakeholder Objectives.

There were no comments on this item.

3. Timeline for Activities Regarding Determination to be Made Pursuant to Business and Professions Code Section 5096.21.

There were no comments on this item.

4. Discussion Regarding the Minimum Amount of Information to be Posted on the Internet in Order to be Deemed Substantially Equivalent.

Ms. Salazar reported that the MSG was provided with information regarding the amount of information that must be posted on the internet in order to satisfy BPC section 5096.212(c)(4). She stated that staff determined, in consultation with legal counsel, that BPC

section 5096.21(c)(4) requires the information to be, at a minimum, equal to the information that was previously available to consumers through the prior practice privilege form, which required licensees to self-report discipline. She stated that staff would perform its own investigation of the matter, and if action was warranted, the CBA would revoke the practice privilege and post a flag on its website to indicate disciplinary history. Ms. Salazar also reported that the MSG reviewed how the CBA, CPAVerify, and other states make this type of information available on their website and reviewed the preliminary research performed by staff to determine which states flag disciplinary history for their licensees.

5. Discussion Regarding Options Including a Possible Legislative Proposal for Expediting a Rulemaking Pursuant to Business and Professions Code Section 5096.21(a).

Ms. Salazar reported that the MSG discussed options for expediting the rulemaking process undertaken pursuant to BPC section 5096.21(a) and explored methods to reduce the normal 12-18 month rulemaking time to add or remove states from the no notice, no fee practice privilege program in order to better protect consumers. She stated that the first option is to pursue each rulemaking as an emergency regulation, and the second option is to amend BPC section 5096.21(a) to provide for a legislatively declared emergency.

The MSG recommends that the CBA adopt the suggested language to amend BPC section 5096.21(a) and direct staff to proceed with the legislative process.

Yes: Ms. Anderson, Ms. Berhow, Mr. Elkins, Mr. Kaplan, Ms. Ko, Ms. LaManna, Ms. León, Mr. Ou-Yang, Ms. Robinson, Ms. Salazar, Mr. Savoy, Mr. Silverman, and Ms. Wright.

No: Mr. Campos.

Abstain: None.

Absent: None.

The motion passed.

6. Discussion Regarding the National Association of State Boards of Accountancy's Activities and CPAVerify.

Ms. Salazar reported that NASBA will hold its 108th Annual Meeting on October 25-28, 2015 in Dana Point, CA. She also noted that there are five states, which include Delaware, Hawaii, Michigan, Utah, and

Wisconsin, that are not participating in the Accountancy Licensee Database and CPAVerify.

7. Discussion Regarding Proposed Agenda Items for the Next Mobility Stakeholder Group Meeting.

Ms. Salazar reported staff indicated that the number of agenda topics a November meeting was not warranted.

The MSG recommended that the CBA direct the MSG to next convene in January 2016.

Yes: Ms. Anderson, Ms. Berhow, Mr. Campos, Mr. Elkins, Mr. Kaplan, Ms. Ko, Ms. LaManna, Ms. León, Mr. Ou-Yang, Ms. Robinson, Ms. Salazar, Mr. Savoy, Mr. Silverman, and Ms. Wright.

No: None.

Abstain: None.

Absent: None.

The motion passed.

IX. Acceptance of Minutes.

- A. Draft Minutes of the July 22-23, 2015 California Board of Accountancy Meeting.
- B. Draft Minutes of the July 22, 2015 California Board of Accountancy Strategic Planning Workshop.
- C. Minutes of the July 23, 2015 Mobility Stakeholder Group Meeting.
- D. Minutes of the January 22, 2015 Joint Strategic Planning Committee and the Peer Review Oversight Committee Meeting.
- E. Minutes of the March 19, 2015 Strategic Planning Committee Meeting.
- F. Minutes of the May 28, 2015 Committee on Professional Conduct Meeting.
- G. Minutes of the May 1, 2015 Peer Review Oversight Committee Meeting.
- H. Minutes of the April 22, 2015 Qualifications Committee Meeting.

It was moved by Mr. Silverman and seconded by Ms. Anderson to approve agenda items IX.A-IX.E and IX.G-IX.H.

Yes: Ms. Anderson, Ms. Berhow, Mr. Campos, Mr. Elkins, Mr. Kaplan, Ms. Ko, Ms. León, Mr. Ou-Yang, Ms. Robinson, Ms. Salazar, Mr. Savoy, Mr. Silverman, and Ms. Wright.

No: None.

Abstain: Ms. LaManna.

Absent: None.

The motion passed.

It was moved by Mr. Campos and seconded by Ms. Anderson to approve agenda item IX.F. with an edit to remove the typographical error of an additional “t” on page 3.

Yes: Ms. Anderson, Ms. Berhow, Mr. Campos, Mr. Elkins, Mr. Kaplan, Ms. Ko, Ms. LaManna, Ms. León, Mr. Ou-Yang, Ms. Robinson, Ms. Salazar, Mr. Savoy, Mr. Silverman, and Ms. Wright.

No: None.

Abstain: None.

Absent: None.

The motion passed.

X. Other Business.

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

- 1. Report on Public Meetings of the American Institute of Certified Public Accountants Attended by a CBA Representative.**

There was no report for this item.

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

- 1. Report on Strategic Planning Task Force.**

Mr. Savoy reported that NASBA strategic plan would be presented at the NASBA Annual Meeting.

2. Report on Public Meeting of the National Association of State Boards of Accountancy Attended by a CBA Representative.

There was no report on this item.

3. Proposed Responses to the National Association of State Boards of Accountancy's Focus Questions.

It was moved by Ms. Anderson and seconded by Mr. Elkins to approve the proposed responses to the NASBA Focus Questions.

Yes: Ms. Anderson, Ms. Berhow, Mr. Campos, Mr. Elkins, Mr. Kaplan, Ms. Ko, Ms. LaManna, Ms. León, Mr. Ou-Yang, Ms. Robinson, Ms. Salazar, Mr. Savoy, Mr. Silverman, and Ms. Wright.

No: None.

Abstain: None.

Absent: None.

The motion passed.

XI. Closing Business.

A. Public Comments.*

Mr. Driftmier stated that he will be attending outreach events to provide information to college and high school students regarding the education requirements that must be met to become a Certified Public Accountant.

B. Agenda Items for Future CBA Meetings.

Mr. Campos suggested an agenda topic on outreach efforts beyond what is currently reported.

C. Press Release Focus.

Mr. Stanley suggested a press release regarding SB 467.

XII. Closed Session.

- A. Pursuant to Government Code Section 11126(c)(3), the CBA Convened Into Closed Session to Deliberate on Disciplinary Matters (Stipulated Settlements, Default Decisions, and Proposed Decisions).

- B. Pursuant to Government Code Section 11126(e), the California Board of Accountancy Convened Into Closed Session to Receive Advice from Legal Counsel on Litigation (David Greenberg v. California Board of Accountancy, Orange County Superior Court, Case No. 30-2014-00751855-CU-BT-CJC; David Greenberg v. California Board of Accountancy, Los Angeles County Superior Court, Case No. BS155045; and David Greenberg v. Erin Sunseri, et al., U.S. District Court, Southern District of Florida, Case No. 15-CV-80624.).

XIII. Petition Hearings.

- A. Lowell A. Baisden – Petition for Reinstatement of Revoked Certificate.

The CBA heard Mr. Baisden’s petition for reinstatement of revoked certificate.

- B. Kwang-Ho Lee – Petition for Reinstatement of Revoked Certificate.

The CBA heard Mr. Lee’s petition for reinstatement of revoked certificate.

- C. Roland Zita – Petition for Reinstatement of Revoked Certificate.

The CBA heard Mr. Zita’s petition for reinstatement of revoked certificate.

- D. Edward A. Robinson – Petition for Reduction of Penalty.

The CBA heard Mr. Robinson’s petition for reduction of penalty.

- E. Silver D. Sack – Petition for Reduction of Penalty.

The CBA heard Mr. Sack’s petition for reduction of penalty.

- F. Closed Session. Pursuant to Government Code Section 11126(c)(3), the California Board of Accountancy Convened into Closed Session to Deliberate on Disciplinary Matters (Petitions for Reinstatement of Revoked Certificate and Reduction of Penalty).

President Campos adjourned the meeting at 1:24 p.m. on Friday, September 18, 2015.

_____ Jose A. Campos, CPA, President

_____ Alicia Berhow, Secretary-Treasurer

Corey Riordan, Board Relations Analyst, and Patti Bowers, Executive Officer, CBA, prepared the CBA meeting minutes. If you have any questions, please call (916) 561-1718.



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EPOC Item I.

November 19, 2015

CBA Item XII.B.

November 19, 2015

DEPARTMENT OF CONSUMER AFFAIRS
 CALIFORNIA BOARD OF ACCOUNTANCY (CBA)

DRAFT

MINUTES OF THE
May 28, 2015
ENFORCEMENT PROGRAM OVERSIGHT COMMITTEE (EPOC) MEETING

Hilton Los Angeles Airport
 5711 West Century Boulevard
 Los Angeles, CA 90045
 Telephone: (310) 410-6184

CALL TO ORDER

Kay Ko, Chair, called the meeting of the EPOC to order at 12:12 p.m. on Thursday, May 28, 2015 at the Hilton Los Angeles Airport. Ms. Ko requested that the roll be called.

EPOC Members

Kay Ko, Chair	12:38 p.m. – 12:49 p.m.
Alicia Berhow	12:38 p.m. – 12:49 p.m.
Herschel Elkins, Esq.	12:38 p.m. – 12:49 p.m.
Louise Kirkbride	Absent
Leslie LaManna, CPA	12:38 p.m. – 12:49 p.m.
Xochitl León	12:38 p.m. – 12:49 p.m.
Jian Ou-Yang, CPA	12:38 p.m. – 12:49 p.m.

CBA Members Observing

Jose Campos, CPA, President
 Katrina Salazar, CPA, Vice President
 Sally Anderson, CPA
 Mark Silverman, Esq.
 Kathleen Wright, CPA

Staff and Legal Counsel

Patti Bowers, Executive Officer
 Deanne Pearce, Assistant Executive Officer
 Rich Andres, Information Technology Staff
 Pat Billingsley, Regulation Analyst
 Dominic Franzella, Chief, Enforcement Division

Corey Faiello-Riordan, Board Relations Analyst
Kathryn Kay, Legislation Analyst
Gina Sanchez, Chief, Licensing Division
Kristy Schieldge, Legal Counsel, Department of Consumer Affairs
Dorothy Osgood, Supervising Investigative CPA

Committee Chairs and Members

Robert Lee, CPA, Chair, Peer Review Oversight Committee
Jeffrey De Lyser, CPA, Chair, Enforcement Advisory Committee
Stuart Walman, Esq., Mobility Stakeholder Group (MSG)
Joseph Petito, Esq., MSG

Other Participants

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

- I. Approve Minutes of the March 19, 2015 EPOC Meeting.

It was moved by Ms. Berhow and seconded by Ms. LaManna to approve the minutes of the March 19, 2015 EPOC Meeting.

Yes: Ms. Berhow, Mr. Elkins, Ms. Ko, Ms. LaManna, Ms. Leon and Mr. Ou-Yang.

No: None.

Absent: None.

The motion passed.

- II. Discussion Regarding Compelling Physical or Mental Health Evaluations of Licensees or Applicants (**Dominic Franzella, Enforcement Chief**)

Mr. Franzella presented a review of the information previously presented during the September 2014 CBA meeting and an overview of the additional research on this topic that was requested by the CBA at the September 20, 2014 meeting.

Mr. Elkins questioned when such evaluations would occur. Mr. Franzella stated such evaluations would likely arise from a complaint and go through a standard investigation. Mr. Elkins asked about the existence of such examples.

Mr. Franzella stated he had no specific knowledge of such cases during his term. Ms. Bowers stated that, since 2008, there have been limited occasions where such examinations could have been used, but lacking such authority, no action could be taken to address the issue.

Ms. Schieldge listed examples of sources of these complaints, such as from consumers who note unusual behaviors by licensees.

Mr. Elkins suggested proposed legislation would be comprised of two parts: one to allow the CBA to require such exams and second to set forth criteria for determining the action that could be taken by the CBA. Ms. Schieldge directed the committee to the healing arts statutory language as a possible template for such language. Ms. Schieldge also stressed that such exams would not apply if a licensee merely had a mental illness but only if that illness currently affected their competency.

Ms. Berhow stated her desire to pursue this language as part of a broader effort to help licensees get the help needed to get back to their livelihood. Mr. Elkins asked if this should apply to other non-healing arts boards. Ms. Schieldge stated that other non-healing arts boards have the same problem.

Motion: It was moved by Mr. Elkins and seconded by Ms. Berhow to direct staff to contact the Department of Consumer Affairs (CBA) to determine their interest and positions on this issue.

Yes: Ms. Berhow, Mr. Elkins, Ms. Ko, Ms. LaManna, Ms. Leon and Mr. Ou-Yang.

No: None.

Absent: None.

The motion passed.

Motion: It was moved by Ms. LaManna and seconded by Ms. Leon to direct staff to develop a legislative proposal/statute similar to that used by the healing arts boards (Section 820) for the coming legislative year.

Yes: Ms. Berhow, Mr. Elkins, Ms. Ko, Ms. LaManna, Ms. Leon and Mr. Ou-Yang.

No: None.

Absent: Ms. Kirkbride.

The motion passed.

III. Discussion Regarding Proposed Agenda Items for 2015.

None.

IV. Public Comments.

No public comments were received.

V. Agenda Items for Next Meeting.

There were no items to be discussed.

There being no further business, the meeting adjourned at approximately 12:49 p.m.



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CBA XII.C.
 November 19, 2015

DEPARTMENT OF CONSUMER AFFAIRS
CALIFORNIA BOARD OF ACCOUNTANCY (CBA)

MINUTES OF THE
September 17, 2015
COMMITTEE ON PROFESSIONAL CONDUCT MEETING

Wyndham Irvine-Orange County Airport
 17941 Von Karman Avenue
 Irvine, CA 92614
 Telephone: (949) 863-1999

CALL TO ORDER

Leslie LaManna, CPA, Chair, called the meeting of the Committee on Professional Conduct (CPC) to order at 9:03 a.m. on Thursday, September 17, 2015 at the Wyndham Irvine-Orange County Airport. Ms. LaManna requested that the roll be called.

CPC Members

Leslie LaManna, CPA, Chair	Present
Sarah (Sally) Anderson, CPA	Present
Laurence (Larry) Kaplan	Present
Kay Ko	Absent
Deidre Robinson	Present
Michael Savoy, CPA	Present
Kathleen Wright, CPA	Present

CBA Members Observing

Jose Campos, CPA, CBA President
 Alicia Berhow
 Herschel Elkins, Esq.
 Xochitl León
 Katrina Salazar, CPA
 Mark Silverman

Staff and Legal Counsel

Patti Bowers, Executive Officer
 Deanne Pearce, Assistant Executive Officer
 Rich Andres, Information Technology Staff
 Pat Billingsley, Regulatory Analyst
 Corey Faiello-Riordan, Board Relations Analyst

Dominic Franzella, Chief, Enforcement Division
Dorothy Osgood, Enforcement Supervising ICPA
Gina Sanchez, Chief, Licensing Division
Matthew Stanley, Information and Planning Officer
Kristy Schieldge, Legal Counsel, Department of Consumer Affairs (DCA)
Carl Sonne, Deputy Attorney General, Department of Justice

Committee Chairs and Members

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

Stacy Grooms, Regulatory Affairs Manager, National Association of State Boards of Accountancy (NASBA)
Jason Fox, California Society of CPAs
Pilar Oñate-Quintana, KP Public Affairs
Joseph Petito, The Accountants Coalition
Jon Ross, KP Public Affairs

- I. Approve Minutes of the May 28, 2015 CPC Meeting

It was moved by Ms. Anderson; seconded by Mr. Savoy and carried unanimously to approve the minutes of the May 28, 2015 CPC Meeting.

Yes: Ms. LaManna, Ms. Anderson, Mr. Savoy, and Ms. Wright

No: None

Abstain: None

Absent: Mr. Kaplan and Ms. Robinson

The motion passed.

- II. Discussion and Possible Action to Seek Legislation to Amend Business and Professions Code (BPC) Section 5094.3 Related to the Ethics Study Educational Requirement.

Ms. Sanchez presented the CPC with proposed amendments to BPC section 5094.3, the ethics study requirements.

Ms. Sanchez explained the intent of BPC section 5094.3 is to ensure that applicants have a broad foundation of courses rooted in ethics.

Ms. Sanchez stated that since implementation in January 2014, many of California's colleges and universities have made changes to their course titles to assist their students in complying with the ethics course requirement and the CBA encourages this practice, as it leads to a more seamless and efficient licensing process.

Ms. Sanchez reported the CBA has received feedback that the requirement of specific terms in the course title may be too restrictive for applicants that received their college education in any of the other 54 jurisdictions, and/or received their college education internationally or prior to the law becoming effective.

Ms. Sanchez suggested that in order to create flexibility in accepting courses which meet the intent of the law, the CBA may wish to seek an amendment to this requirement related to specific course titles.

It was moved by Ms. Anderson; seconded by Mr. Savoy and passed to recommend the CBA approve the proposed language and direct staff to request that the language be included in the 2016 omnibus bill, or, if it is not accepted as part of the omnibus legislation, seek an author to pursue amendments.

Yes: Ms. LaManna and Ms. Anderson

No: Ms. Wright

Abstain: Mr. Savoy

Absent: Mr. Kaplan and Ms. Robinson

The motion passed.

III. Discussion Regarding Proposed Changes to California Code of Regulations Section 9.1 – Approved Credentials Evaluation Services Status

Mr. Billingsley stated the purpose of this discussion was to strengthen the approval process and increase oversight of credentials evaluation services. He stated that at the May 2015 CBA meeting, staff was directed to develop and propose specific changes to this section.

Mr. Billingsley stated the current regulation lacks specificity and does not require services to use a standardized application format.

He went on to describe that in consultation with the CBA legal counsel, staff proposed the following changes to the language presented to the committee at its May 2015 meeting.

Specifically,

- subdivision (a) – include the form number – Form 11A-54 (9-15) as the standardized Credentials Evaluation Services Application,
- paragraphs 1, 2 and 9 require the applicant to certify the information provided,
- paragraph 6 defines “written evidence,”
- subdivision (c) add definition to “change of ownership,”
- subdivision (e) clarifies conditions for withdrawal of approval by the CBA.

It was moved by Mr. Savoy; seconded by Ms. Anderson and carried unanimously to approve the proposed language and direct staff to initiate the rulemaking process.

Yes: Ms. LaManna, Ms. Anderson, Mr. Savoy, and Ms. Wright

No: None

Abstain: None

Absent: Mr. Kaplan and Ms. Robinson

The motion passed.

IV. Discussion and Possible Action to Initiate a Rulemaking to Amend Title 16, California Code of Regulations Section 87 – Continuing Education Requirements

Mr. Franzella stated the CBA had previously discussed the impact of Statement on Standards for Accounting and Review Services (SSARS) No. 21 as it related to peer review at the May 2015 meeting.

Mr. Franzella requested the committee consider and recommend to the CBA if the current 24 hours of accounting and auditing and four hours of ethics continuing education (CE) should be modified for those licensees who, as their highest level of work, perform only preparation engagements (with or without reports). Preparation engagements, as identified in SSARS 21, replaced the service previously referred to as a compilation where no report is issue.

Mr. Franzella further stated that staff had reviewed 30 boards of accountancy and indicated that of those reviewed; none had taken action to modify the CE requirements as a result of SSARS 21.

It was moved by Ms. Anderson; seconded by Ms. LaManna and passed to not require additional continuing education for individuals, which as their highest level of work, perform only preparation engagements (with or without disclaimer reports).

Yes: Ms. LaManna and Ms. Anderson

No: Ms. Wright

Abstain: Mr. Savoy

Absent: Mr. Kaplan and Ms. Robinson

The motion passed.

V. Discussion to Explore Methods to Identify Sole Proprietorships for California Board of Accountancy Peer Review Reports and Other Reporting Purposes

Ms. Sanchez stated this topic was first introduced in the 2014 Sunset Review report, which identified the potential need to register, or otherwise identify, sole proprietorships in the coming years. She explained that the law defines a firm as a corporation, partnership, or sole proprietorship.

Ms. Sanchez indicated that staff has developed two possible options for the CBA's consideration, including full registration of sole proprietorships and tracking sole proprietorships via the license renewal application.

Ms. Sanchez stated that full registration would necessitate the creation of a new license type and requirements for obtaining and renewing a license to operate as a sole proprietorship as well as possible fees.

Ms. Sanchez stated that if the CBA selects this method, staff will bring a future agenda item to provide members with a discussion topic to explore the possible conditions and criteria members may wish to establish for registering and renewing sole proprietorships.

Ms. Sanchez described the second option as a tracking method through the license renewal application, which would require licensees to identify whether they operate as a sole proprietorship on the renewal form.

Ms. Sanchez stated that if the CBA selects the tracking method, staff will bring proposed regulatory language as a future agenda item.

It was moved by Ms. Anderson; seconded by Mr. Savoy and carried unanimously to recommend to the CBA that sole proprietorships be tracked via the renewal form and direct staff to bring proposed regulatory language as a future agenda item.

Yes: Ms. LaManna, Ms. Anderson, Mr. Savoy, and Ms. Wright

No: None

Abstain: Mr. Kaplan and Ms. Robinson

The motion passed.

VI. Update on the Study of California's Attest Experience Requirement

Ms. Sanchez provided the committee an update on the progress of the study of California's 500-hour attest experience requirement for certified public accountant licensure. The full study launched on August 11, 2015 to all CBA stakeholders.

Ms. Sanchez reported that as of September 11, 2015, the CBA has received a total of 6,788 responses of which over 6,500 identified themselves as licensees.

Ms. Sanchez concluded by indicating that in early 2016, the CBA will receive a comprehensive report of the study to assist in its deliberations regarding the attest experience requirement for licensure.

VII. Public Comments.

No public comments were received.

VIII. Agenda Items for Next Meeting.

None

There being no further business, the meeting adjourned at 9:53 a.m.



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CBA Item XII.D.
 November 19, 2015

DEPARTMENT OF CONSUMER AFFAIRS
 CALIFORNIA BOARD OF ACCOUNTANCY (CBA)

MINUTES OF THE
JULY 9, 2015
ENFORCEMENT ADVISORY COMMITTEE (EAC) MEETING

California Board of Accountancy
 2000 Evergreen Street, Suite 250
 Sacramento, CA 95815
 Telephone: (916) 263-3680

I. Roll Call and Call to Order.

EAC Vice-Chair, Joseph Rosenbaum, CPA, called to order the regularly scheduled meeting of the EAC at 9:06 a.m. on July 9, 2015.

Members

Jeffrey De Lyser, CPA, Chair	Absent
Joseph Rosenbaum, CPA, Vice-Chair	Present
Katherine Allanson, CPA	Present
Dale Best, CPA	Present
Joseph Buniva, CPA	Absent
Gary Caine, CPA	Present
Nancy Corrigan, CPA	Present
Mary Rose Caras, CPA	Present
William Donnelly, CPA	Present
Thomas Gilbert, CPA	Present
Robert A. Lee, CPA	Absent
Mervyn McCulloch, CPA	Present
Michael Schwarz, CPA	Present

CBA Members

Katrina Salazar, CPA, CBA Liaison

CBA Staff and Legal Counsel

Dominic Franzella, Chief, Enforcement Division
 Paul Fisher, Supervising Investigative CPA
 Dorothy Osgood, Supervising Investigative CPA
 Tina MacGregor, Investigative CPA
 Nancy Remberg, Investigative CPA
 Jody Liang, Investigative CPA

Allison Nightingale, Enforcement Technician
Malcolm Mitchell, Enforcement Analyst
Carl Sonne, Deputy Attorney General (DAG), Department of Justice

II. Report of the Committee Chair (**Joseph Rosebaum**).

A. Approval of the April 30, 2015 EAC Meeting Minutes.

It was moved by Mr. Schwarz and seconded by Mr. Donnelly to approve the minutes of the April 30, 2015 EAC meeting.

Yes: Ms. Allanson, Mr. Best, Mr. Caine, Ms. Corrigan, Ms. Caras, Mr. Donnelly, Mr. Gilbert, and Mr. Schwarz.

No: None.

Abstain: Mr. Rosenbaum and Mr. McCulloch.

The motion passed.

III. Report of the CBA Liaison (**Katrina Salazar, CBA Liaison**).

A. Report of the May 28-29, 2015 CBA and Committee Meetings.

Ms. Salazar provided the report for this agenda item. She reported that at the Joint meeting of the CBA and the Mobility Stakeholder Group, the National Association of State Boards of Accountancy presented their Guiding Principles of Enforcement, and Mr. Franzella provided a comparison of the principles to the CBA's Enforcement Practices.

Ms. Salazar also reported that the CBA reviewed the CBA committee liaison roles and determined that no changes were needed, as the liaisons ensure that the committees and the CBA are kept apprised of each other's activities. She also reported that the CBA delegated the adjournment of the committee meetings to the committee chairs. This delegation will ensure that the meeting can be adjourned without a motion or quorum of members.

Ms. Salazar reported that Ms. Bowers announced the lease for the CBA's new office was executed and the tentative date for relocation is August 2015.

Ms. Salazar reported that the CBA took positions on the following bills:

AB 750 – Neutral. AB 750 would authorize all Department of Consumer Affairs boards and bureaus to establish a retired license status through the regulatory process. The CBA also directed staff to work with the author's office on an amendment that will exempt the CBA from the bill, as one of the provisions of the bill states that the holder of a retired license shall not be required to renew that license and the CBA requires that a license placed in retired status be renewed every two years.

Ms. Salazar also reported that the CBA adopted a legislative proposal incorporating reference to Article 5.1 in section 5055, which would clarify that practice privilege holders may use the certified public accountant designation in California, and directed staff to submit the proposal to the Legislature for inclusion in the omnibus bill.

IV. Report of the Enforcement Chief (**Dominic Franzella**).

A. Enforcement Activity Report.

Mr. Franzella provided an overview of this item. He noted that CBA staff will provide an overview of the probation monitoring process at an upcoming CBA meeting.

Mr. Franzella gave an update on staffing and reported that the Discipline and Probation Monitoring Unit filled the two vacant Associate Governmental Program Analyst positions. He also reported that Dorothy Osgood filled the vacant Supervising Investigative CPA position.

B. Report on Accusations and Final Disciplinary Orders Effective April 3, 2015 to June 15, 2015.

Mr. Franzella reported that since the April 30, 2015 EAC meeting, the CBA has filed six accusations and taken six disciplinary actions.

V. Public Comments for Items not on the Agenda.

No public comment was given.

VI. Review Enforcement Files on Individual Licensees.

[Closed Session: The EAC met in closed session to review and deliberate on enforcement files as authorized by Government Code section 11126(c)(2) and Business and Professions Code section 5020.]

VII. Conduct Closed Hearings.

[The Committee met in closed session as authorized by Government Code sections 11126(c)(2) and (f)(3) and Business and Professions Code section 5020 to conduct closed sessions to interview and consider possible disciplinary action against an individual licensee or applicant prior to the filing of an accusation.]

VIII. Adjournment.

The next EAC meeting is scheduled for October 22, 2015 at the Marriott-Los Angeles Burbank Airport.

Having no further business to conduct, the EAC general meeting adjourned at approximately 9:35 a.m. to convene in closed session. Closed session adjourned at approximately 11:30 a.m. Closed session reconvened for investigative hearings from 1:00 p.m. to 5:00 p.m.

Joseph Rosenbaum, CPA, Vice-Chair
Enforcement Advisory Committee

Prepared by: Allison Nightingale, Enforcement Technician

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**CBA Item XII.E.**

November 19, 2015

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

**MINUTES OF THE
 July 29, 2015
 QUALIFICATIONS COMMITTEE (QC) MEETING**

California Board of Accountancy Office
 2000 Evergreen Street, Suite 250
 Sacramento, CA 95815
 Telephone: (916) 263-3680

The regularly scheduled meeting of the QC was called to order at 10:04 a.m. on July 29, 2015, by QC Chair, Robert Ruehl.

QC Members

Robert Ruehl, CPA, Chair
 Jenny Bolsky, CPA, Vice-Chair
 Eric Borigini, CPA
 Saboohi Currim, CPA – Absent
 David Evans, CPA
 Christine Gagnon, CPA
 Tracy Garone, CPA
 Kristian George, CPA
 Chuck Hester, CPA
 Casandra Moore Hudnall, CPA – Absent
 Jose Palma, CPA
 David Papotta, CPA
 Erin Sacco Pineda, CPA – Absent
 Nasi Raissian, CPA – Absent
 Jeremy Smith, CPA – Absent
 Kimberly Sugiyama, CPA

CBA Members

Kay Ko, CBA Member, QC Liason (Southern California)
 Larry Kaplan, CBA Member

CBA Staff

Gina Sanchez, Licensing Chief
Veronica Daniel, Licensing Manager
Ben Simcox, Licensing Coordinator

I. Chairperson's Report.

Mr. Ruehl welcomed the QC Members and CBA members Larry Kaplan and Kay Ko to the meeting. Mr. Ruehl introduced new QC Member Christine Gagnon who was appointed at the July 22-23, 2015 CBA meeting. Mr. Ruehl announced that Erin Sacco Pineda was re-appointed as a QC Member for another 2-Year term. Mr. Ruehl then took the roll-call.

A. Approval of the April 22, 2015 QC Meeting Minutes.

It was moved by Mr. Evans and seconded by Ms. Bolsky to approve the minutes of the April 22, 2015 QC Meeting.

Yes: Mr. Ruehl, Ms. Bolsky, Mr. Borigini, Mr. Evans, Ms. Gagnon, Mr. Hester, Mr. Palma, Mr. Papotta, Ms. Raissian, and Ms. Sugiyama.

No: None.

Abstain: Ms. Garone.

Absent: Ms. George.

B. Proposed Meeting Dates for 2016 QC Meeting Dates.

Mr. Ruehl presented the proposed 2016 QC Meeting Dates and facilitated a discussion regarding the proposed dates. It was determined that the proposed April 20, 2016 meeting date will be moved to April 27, 2016.

With that change noted, it was moved by Mr. Evans and seconded by Mr. Palma to approve the proposed QC meeting dates for 2016.

Yes: Mr. Ruehl, Ms. Bolsky, Mr. Borigini, Mr. Evans, Ms. Gagnon, Ms. Garone, Mr. Hester, Mr. Palma, Mr. Papotta, Ms. Raissian, and Ms. Sugiyama.

No: None.

Abstain: None.

Absent: Ms. George.

C. Discussion and Review of the QC Best Practices Guide for Conducting Personal Appearances/Section 69 Reviews.

Ms. Daniel provided a synopsis of the discussion held at the April 22, 2015 QC Meeting regarding the QC Best Practices Guide for Conducting Personal Appearances/Section 69 Reviews (Best Practices). Mr. Ruehl stated that this continued discussion regarding the Best Practices is to ensure that all applicants and employers can have a consistent experience as they meet with a QC Committee Panel for a Personal Appearance or Section 69 Review.

The QC Members discussed the Best Practices and how to effectively implement the Best Practices while conducting the interviews. It was determined that CBA Staff should revise the "QC Section 69 Firm Interview Evaluation" by integrating the Best Practices List as a second page, so that QC Members can circle specific items and write additional comments. The revised "QC Section 69 Firm Interview Evaluation" will be prepared by CBA Staff and reviewed by the QC Members at the October 21, 2015 meeting.

II. Report of the CBA Liaison.

A. Report on the May 28-29, 2015 & July 22-23, 2015, CBA Meetings.

Ms. Ko provided a report for this item.

Ms. Ko reported that The Mobility Stakeholder Group (MSG) met in conjunction with the CBA at both the May and July meetings. The MSG and CBA are working with the National Association of State Boards of Accountancy – or NASBA – regarding the recently adopted Enforcement Guidelines and NASBA's evaluation of other states enforcement practices to determine equivalency to the Enforcement Guidelines.

Ms. Ko reported that the CBA delegated the adjournment of the committee meetings to the committee chairs. This delegation will ensure that the meeting can be adjourned at the conclusion of closed session without a motion or quorum of members present.

Ms. Ko stated that the CBA reappointed Erin Sacco-Pineda to the QC at the May CBA meeting and that Christine Gagnon was appointed to the QC at the July CBA meeting.

Ms. Ko reported that the CBA adopted a legislative proposal in May that will clarify that practice privilege holders may use the Certified Public Accountant (CPA) designation in California. In June, the proposal was amended into

Senate Bill 799, the omnibus bill, which is now making its way through the legislature.

Ms. Ko reported that at both the May and July meetings, the CBA took positions on other various bills and Ms. Ko highlighted Senate Bill 467, which is the CBA's Sunset Review bill. Among other items, it proposes to extend the CBA's sunset date to January 1, 2020. The bill has been successfully moving through the legislature and is presently being held in suspense with the Assembly Appropriations Committee. This is typical for sunset bills and will be voted on by the committee no later than August 28.

Ms. Ko reported that at the July CBA meeting, a Strategic Planning Workshop was held to develop the CBA's 2016-18 Strategic Plan. During the workshop, members made no changes to the Mission, Vision, and Values and also retained the existing goals. The CBA did, however, develop new objectives. The next step is to have the draft strategic plan reviewed by the Strategic Planning Committee at the CBA's September meeting. Based on any changes they have, it is anticipated that the CBA will approve the Strategic Plan at either the September or November CBA meeting.

Ms. Ko stated that as was previously communicated to members, the CBA will be relocating its office. Ms. Bowers reported at the July meeting that the date for relocation has been postponed to the end of the year.

III. Report on the Activities of the Initial Licensing Unit (ILU).

Ms. Daniel provided the final licensing statistics for fiscal year 2014/15. Ms. Daniel noted that the total received applications for 2014/2015 were consistent with the average number of applications trend for the past seven years and that the 2013/14 was an abnormal year with increased applications due to the new educational requirements being implemented in January 2014. Ms. Daniel stated that the ILU staff is currently working towards implementation of the next phase of the Attest Study. Pre-testing of the survey has been conducted and the results of the survey are currently being examined by the CBA staff and outside consultants. It is anticipated that the full study will go live in Mid-August. Outreach will be performed by CBA staff when the survey is launched.

Ms. Daniel concluded her report by asking for any questions or comments.

IV. Public Comment for Items Not on the Agenda.

None.

V. CONDUCT CLOSED HEARINGS [Closed session in accordance with Government Code section 11126(c)(2) and (f)(3), and Business and

Professions Code section 5023 to interview individual applicants for CPA licensure.]

C15-015 – The applicant appeared and presented work papers from her private industry experience. She has 34.25 months of experience, with a 12-month experience requirement. She is currently licensed with general accounting experience.

The employer has an adequate understanding of the Certificate of Attest Experience (CAE). The work performed by the applicant was reviewed and no deficiencies were noted. The work was adequate to support licensure.

Recommendation: Approve.

C15-016 – The applicant appeared and presented work papers from her public accounting experience. She has 30 months of experience, with a 12-month experience requirement. She is currently licensed with general experience.

The employer's understanding of the CAE was inadequate and the CAE was inaccurately prepared. The work reviewed by the QC did not demonstrate that the applicant has sufficient experience in planning attest engagements or performing appropriate procedures and techniques during attest engagements. The work was inadequate to support attest licensure for the applicant and the employer has been placed on reappearance status.

Recommendation: Defer.

C15-017 – The applicant and her employer appeared and presented work papers from her public accounting experience. She has 12.75 months of experience, with a 12-month experience requirement. She is currently licensed with general experience.

The employer's understanding of the CAE was adequate. The work performed by the applicant was reviewed and no deficiencies were noted. The work was adequate to support licensure.

Recommendation: Approve.

C15-018 – The applicant and her employer appeared and presented work papers from her public accounting experience. She has 109.5 months of experience, with a 12-month experience requirement. She is currently licensed with general experience.

The employer's understanding of the CAE was adequate. The work performed by the applicant was reviewed and no deficiencies were noted. The work was adequate to support licensure.

Recommendation: Approve.

C15-019 – The applicant appeared and presented work papers from his public accounting experience. He has 14.5 months of experience, with a 12-month experience requirement. He is currently licensed with general experience.

The employer's understanding of the CAE was inadequate and the CAE was inaccurately prepared. The work reviewed by the QC did not demonstrate that the applicant has sufficient experience in planning attest engagements or performing appropriate procedures and techniques during attest engagements. The work was inadequate to support attest licensure for the applicant and the employer has been placed on reappearance status.

Recommendation: Defer.

C15-020 – The applicant and her employer appeared and presented work papers from her public accounting experience. She has 49 months of experience, with a 12-month experience requirement.

The employer's understanding of the CAE was adequate. The work performed by the applicant was reviewed and no deficiencies were noted. The work was adequate to support licensure.

Recommendation: Approve.

C15-021 – The applicant and her employer appeared due to a family relationship and presented work papers from her public accounting experience. She has 39 months of experience, with a 12-month experience requirement.

The employer's understanding of the CAE was adequate. The work performed by the applicant was reviewed and no deficiencies were noted. The work was adequate to support licensure. There was no conflict of interest.

Recommendation: Approve.

C15-022 – The applicant and his employer appeared and presented work papers from his public accounting experience. He has 27 months of experience, with a 12-month experience requirement. He is currently licensed with general experience.

The employer's understanding of the CAE was inadequate and the CAE was inaccurately prepared. The work reviewed by the QC did not demonstrate that the applicant has sufficient experience in audit planning, programs, risk assessment or test of controls. The work was inadequate to support attest licensure for the applicant and the employer has been placed on reappearance status.

Recommendation: Defer.

C15-023 – The applicant and his employer appeared and presented work papers from his public accounting experience. He has 27 months of experience, with a 12-month experience requirement. He is currently licensed with general experience.

The employer's understanding of the CAE was inadequate and the CAE was inaccurately prepared. The work reviewed by the QC did not demonstrate that the applicant has sufficient experience in audit planning, programs, risk assessment or test of controls. The work was inadequate to support attest licensure for the applicant and the employer has been placed on reappearance status.

Recommendation: Defer.

C15-024 – The applicant and her employer appeared and presented work papers from her public accounting experience. She has 27 months of experience, with a 24-month experience requirement. She is currently licensed with general experience.

The employer's understanding of the CAE was inadequate and the CAE was inaccurately prepared. The work reviewed by the QC did not demonstrate that the applicant has sufficient experience in audit planning, programs, risk assessment or test of controls. The work was inadequate to support attest licensure for the applicant and the employer has been placed on reappearance status.

Recommendation: Defer.

The following Section 69 reviews took place on July 22, 2015, and are made a part of these minutes.

C15-024 – The applicant and her employer appeared due to government experience and presented work papers. She has 42.25 months of experience, with a 12-month experience requirement. She is currently licensed with general experience.

The employer's understanding of the CAE was adequate. The work performed by the applicant was reviewed and no deficiencies were noted. The work was adequate to support licensure.

Recommendation: Approve.

C15-025 – The applicant and his employer appeared and presented work papers from his public accounting experience. He has 12 months of experience, with a 12-month experience requirement. The work performed by the applicant was reviewed and no deficiencies were noted. The work was adequate to support licensure.

Recommendation: Approve.

Note: The employer's understanding of the CAE was inadequate and the employer inaccurately prepared the CAE.

The employer has been placed on reappearance.

C15-026 – The applicant and her employer appeared with work papers from her public accounting experience due to the employer's reappearance status. The applicant has 22 months of experience, with a 12-month experience requirement.

The employer's understanding of the CAE was adequate. The work performed by the applicant was reviewed and no deficiencies were noted. The work was adequate to support licensure.

Recommendation: Approve applicant and remove employer from the Reappearance Status list.

C15-027 – The applicant and his employer appeared and presented work papers from his public accounting experience. He has 41.75 months of experience, with a 12-month experience requirement.

The employer's understanding of the CAE was adequate. The work performed by the applicant was reviewed and no deficiencies were noted. The work was adequate to support licensure.

Recommendation: Approve.

Adjournment.

There being no further business to be conducted, the meeting was adjourned at approximately 3:30 p.m. on July 29, 2015. The next meeting of the QC will be held on October 21, 2015 in Northern California.

Robert Ruehl, CPA, Chair

Prepared by: Ben Simcox, ILU Coordinator



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CBA Item XIV.A-C.
November 19, 2015

Officer Elections

Presented by: Jose A. Campos, CPA, President

Consumer Protection Objectives

The purpose of this agenda item is to present the statement of qualifications submitted by members for consideration for Officer Elections at the California Board of Accountancy (CBA) November 2015 meeting. This agenda item is a necessary part of the CBA's normal course of business, and as such, it will assist the CBA in continuing its mission of consumer protection as mandated by statute in Business and Professions Code section 5000.1.

Action(s) Needed

It is requested that CBA members consider all applicant's statements, including any additional candidates who express interest at the CBA meeting.

Background

The statements of qualifications are presented at the November CBA meeting. The President shall ask if there are any additional candidates for the officer positions. All candidates may be given up to five minutes of floor time to describe why they are qualified for the position.

The vote for officer positions will be held in the following order: Secretary/Treasurer, Vice-President, and President. The vote will be taken for each position nominee, starting in alphabetical order by the candidate's last name. Members can vote Yes, No, or Abstain. The first nominee to receive a majority vote will win the officer position.

The President, Vice-President, and Secretary/Treasurer serve one-year terms and may not serve more than two consecutive one-year terms. The newly elected President, Vice-President, and Secretary/Treasurer shall assume the duties of their respective offices at the conclusion of the November meeting at which they were elected.

Comments

The following members have submitted statements of qualifications:

- Michael M. Savoy, CPA – Secretary/Treasurer (**Attachment 1**)
- Kathleen K. Wright, CPA – Secretary/Treasurer (**Attachment 2**)
- Alicia Berhow – Vice-President (**Attachment 3**)

Officer Elections

Page 2 of 2

- Katrina L. Salazar, CPA – President (**Attachment 4**)

Fiscal/Economic Impact Considerations

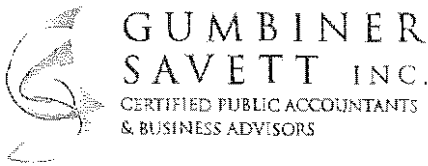
There are no fiscal/economic impact considerations.

Recommendation

Staff do not have a recommendation on this agenda item.

Attachments

1. Statement of qualifications for Michael M. Savoy, CPA
2. Statement of qualifications for Kathleen K. Wright, CPA
3. Statement of qualifications for Alicia Berhow
4. Statement of qualifications for Katrina L. Salazar, CPA



September 25, 2015

California Board of Accountancy

Ladies and Gentlemen:

I am interested in running for the office of secretary/treasurer for the CBA for the 2015-2016. Below I have set forth what I believe are my qualifications for your consideration for this position.

Since graduating college in 1973 I have worked in public accounting my entire career first in New York City and now in Los Angeles. I have worked for only 3 accounting firms in my career and presently serve as a shareholder of a 100 person CPA firm in Santa Monica.

I have given my time to serve in the community and feel that this experience is invaluable in pursuant of this position.

I formerly served on the board and finance committee of a private day school in Northridge and have also served as the school's treasurer/CFO for 6 years.

I presently serve on the finance committee, executive committee and the board of the Los Angeles Area Chamber of Commerce.

I am a past Chairman of the Board for the Americas Region of BKR International, which is a group of 160 independent CPA firms in over 72 countries in more than 300 cities throughout the world.

I have now been on the board of the CBA for five years, and have previously served as the board's president (2013-2014), vice president (2012-2013) and secretary/treasurer (2011-2012), and have served on all committees of this board and have gained an enormous amount of appreciation for this position along with the experience that comes with this responsibility.

I believe that my experience in both the accounting profession for over 42 years and in serving the community more than qualifies me to serve as secretary/treasurer for the CBA for 2015-16.

Thank you for considering me for this position.

Michael M. Savoy, CPA

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October 2, 2015

California Board of Accountancy
2000 Evergreen St. Suite 250
Sacramento, CA 95815-3832

Dear Board of Accountancy Members:

I respectfully submit my name for your consideration for the position of Secretary/Treasurer.

I was appointed to the Board in February 2015, and have found it to be a fascinating learning experience. I look forward to assisting with the development of solutions to problems/issues that the Board faces at every meeting. Currently I serve on the Qualifications Committee and am the Northern California Liaison for that group. I also serve on the Enforcement Advisory Committee.

I have been a CPA since 1975 (originally licensed in New York) and received my California license in 2003. I have also been a licensed attorney since 1982 (license active and in good standing in New York). The experience of practicing both as a CPA and a Lawyer has provided an excellent perspective and background on consumer issues and how they should be handled. I fully support the Board's consumer protection mandate and look forward to continued service to the consumers of the state of California.

During my 40 years of practice, I have held positions in a Big Four public accounting firm, with Citicorp/Citibank and with the California State University system. I currently teach at Golden Gate University in their graduate tax program. While at Citicorp I served as the Financial Controller for Citicorp Savings located in Oakland, CA. This subsidiary managed the West Coast banking operations of Citicorp. That job was primarily budget management and financial statement preparation for multiple third parties. As a result of that experience and other projects, I am well versed in budget, accounting and tax issues at an advanced level.

I also serve on the Executive Advisory Board of the Franchise Tax Board and have in the recent past served on the Technical Resource Panel of the AICPA (working with them on the development of tax policy papers presented to state/federal government agencies and legislative bodies.) I have also served on the Board of Trustees of CalCPA, which involved assisting with the development of their continued education programs. I teach several of these programs, and have been involved with their various outreach efforts for at least 20 years. As a result of my many years of public speaking experience and extensive educational background, I can readily identify problematic areas and develop/implement solutions.

I look forward to continuing service to the Board and ask for your support of my application to become the Board's next Secretary/Treasurer. Thank you for your consideration.

Sincerely,

Kathleen K. Wright
CPA, MBA (Taxation), JD, LL.M (Taxation).

October 1, 2015

Ms. Patti Bowers
Executive Officer
California Board of Accountancy
2000 Evergreen Street, Ste. 250
Sacramento, CA 98514

Dear Ms. Bowers,

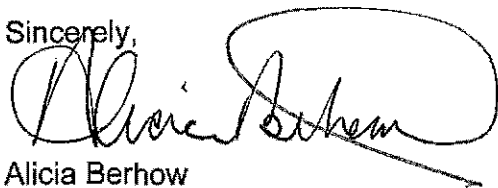
I am formally submitting my letter of intent to run for Vice President of the California Board of Accountancy (CBA) for 2016.

Over the last five years of serving on the board I have gained valuable insight as a public member for the California Board of Accountancy. Currently, I serve as Chair of the Strategic Planning Committee and as a member of the Enforcement Program Oversight Committee. As a former staffer for a federal legislator, in addition to my current position with the Orange County Business Council (OCBC), I understand how the California legislative process works and collaborate with many policymakers that are instrumental to CBA. In my current position with OCBC, as Vice President of Workforce Development and Advocacy, I oversee and control my department while staying within my approved budget every calendar year. Similarly, as Chair of the Economic Development Committee for the Anaheim Workforce Investment Board, it is my responsibility to efficiently conduct our meetings, approve industry sector clusters for the city and promote a positive, productive environment.

As a public member of the CBA, I bring a renewed and balanced perspective to the board. If elected as Vice President, I pledge to work closely with and to support the CBA President and Secretary/Treasurer to uphold the integrity and effectiveness of the Board of Accountancy. My skill set includes strong communication skills, the ability to ask the challenging questions, and working under demanding conditions.

My commitment remains strong to the CBA, the consumers we protect, the CPA's and PA's we assist, and to public service for the State of California. Thank you for your consideration.

Sincerely,

A handwritten signature in black ink, appearing to read "Alicia Berhow". The signature is written in a cursive style with a large, looping initial "A".

Alicia Berhow
Board Member
California Board of Accountancy

cc: President Jose Campos

October 7, 2015

California State Board of Accountancy
2000 Evergreen Street, Suite 250
Sacramento, CA 95815-3832

To the board members of the California Board of Accountancy:

I respectfully submit my name for your consideration as President.

During my past 19 years of licensure, I have personally benefited from the work of this organization. I joined this board in 2012 in order to give back to the profession and help ensure continued consumer protection within our state.

Since joining the board, I have been a member of the Committee on Professional Conduct, as well as the Legislative Committee. I have represented the board to new licensees through outreach with CalCPA, visited the Capitol on behalf of the board, and testified before the Legislature regarding key issues and value to consumers.

In addition, I am also currently the Chair of the Mobility Stakeholder Group, the Northern Liaison to the Enforcement Advisory Committee, and a member of the Strategic Planning Committee.

The professional experience that I bring to the table includes both public and private accounting, and service to the profession as an adjunct faculty member teaching at two community colleges. In addition to my executive board leadership for a variety of organizations, my presidential leadership experience also includes the Rotary Club of Sacramento Foundation and National Latina Business Women Association – Sacramento.

As you are aware, we continue to face issues with mobility, enforcement, technology, and educational requirements. In addition, the Board needs to remain vigilant regarding how changes in these areas impact the mission of consumer protection. I believe that my background in accounting and leadership aligns itself well with the requirements of presidency.

I look forward to continuing service to the California Board of Accountancy, and ask for your support in electing me as President.

Sincerely,

Katrina L. Salazar, CPA, MBA



DEPARTMENT OF CONSUMER AFFAIRS
CALIFORNIA BOARD OF ACCOUNTANCY
2000 EVERGREEN STREET, SUITE 250
SACRAMENTO, CA 95815-3832
TELEPHONE: (916) 263-3680
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WEB ADDRESS: <http://www.cba.ca.gov>



CBA Item XV.C.
November 19, 2015

Press Release Focus

Presented by: Matthew Stanley, Information and Planning Officer

Consumer Protection Objectives

The purpose of this agenda item is to provide suggestions for an appropriate focus for the press release to be issued following each California Board of Accountancy (CBA) meeting to inform consumers and other stakeholders of the activities of the CBA. This is a dynamic analysis based on the activities of each CBA meeting.

Action(s) Needed

No specific action is required on this agenda item.

Background

None.

Comments

The following press releases have been issued since the September 2015 CBA meeting:

- “Legislature Passes CBA Sunset Extension Bill” (**Attachment 1**)
- “CBA Sunset Extension Bill Signed by Governor” (**Attachment 2**)

Additionally, various Enforcement Action news releases (**Attachment 3**) were issued in late October.

Fiscal/Economic Impact Considerations

There are no fiscal/economic impact considerations.

Recommendation

Staff recommendation will be made at the time of this presentation.

Attachments

1. Legislature Passes CBA Sunset Extension Bill
2. CBA Sunset Extension Bill Signed by Governor
3. Enforcement Action News Releases



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Attachment 1

NEWS RELEASE

LEGISLATURE PASSES CBA SUNSET EXTENSION BILL

Sacramento - The California Board of Accountancy was pleased to learn that the Legislature unanimously passed Senate Bill 467 which extends the CBA's sunset date to January 1, 2020.

The CBA undergoes a sunset review every four years during which the Legislature determines whether the CBA is properly fulfilling its mandate to protect the consumers of California through its authority to license and regulate certified public accountants and accounting firms.

"The Legislature has shown that it feels confident in the job that the CBA is doing," said CBA President Jose A. Campos, CPA. "We are anticipating that Governor Brown will feel the same and will sign SB 467 in the coming weeks."

As a part of SB 467, the Legislature included a provision that would give the CBA the authority to include permanent practice restrictions as part of a disciplinary action against a license. When it becomes law, this will allow the CBA to prohibit a licensee from providing certain services while still allowing them to continue practice in other areas.

The CBA undergoes its next sunset review in 2019.

###

Created by statute in 1901, the CBA's mandate requires that protection of the public shall be its highest priority in exercising licensing, regulatory, and disciplinary functions. The CBA currently regulates more than 98,000 licensees, the largest group of licensed accounting professionals in the nation, including individuals, partnerships, and corporations.

Subscribe to CBA E-News to receive links to the latest digital edition of UPDATE and the latest information on CBA programs and activities.

**DEPARTMENT OF CONSUMER AFFAIRS**

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**Attachment 2**

NEWS RELEASE

CBA SUNSET EXTENSION BILL SIGNED BY GOVERNOR

Sacramento - The California Board of Accountancy was pleased to learn that Governor Edmund G. Brown Jr. signed Senate Bill 467 extending the CBA's sunset date to January 1, 2020.

The CBA undergoes a sunset review every four years during which the Legislature determines whether the CBA is properly fulfilling its mandate to protect the consumers of California through its authority to license and regulate certified public accountants and accounting firms.

"I am pleased to see Governor Brown's confidence in the CBA. The extension of the CBA's sunset date is a validation of the hard work the CBA is doing to protect the consumers of California," said CBA President Jose A. Campos, CPA. "We look forward to continuing the CBA's high standards of consumer protection for another four years."

Senate Bill 467 was authored by Senator Jerry Hill (D – San Mateo), the Chair of the Senate Business, Professions, and Economic Development Committee. This Committee, along with the Assembly Committee on Business and Professions, jointly conducted the CBA's sunset review hearings.

The CBA undergoes its next sunset review in 2019.

###

Created by statute in 1901, the CBA's mandate requires that protection of the public shall be its highest priority in exercising licensing, regulatory, and disciplinary functions. The CBA currently regulates more than 98,000 licensees, the largest group of licensed accounting professionals in the nation, including individuals, partnerships, and corporations.

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**California Board of Accountancy
Enforcement Action News Release**

Sent to business@sfchronicle.com (San Francisco Chronicle) and newstips@sfxaminer.com (San Francisco Examiner) on October 27, 2015

Peter Bradford Chase, San Francisco, CA (CPA 128032) has been disciplined by the California Board of Accountancy. Please utilize the attached link to the California Board of Accountancy's Web page to access details of this enforcement action. Please contact Patti Bowers, Executive Officer, by telephone at (916) 561-1718 or by e-mail at pbowers@cba.ca.gov should you have any questions regarding this enforcement action.

http://www.dca.ca.gov/cba/discipline/index.shtml#C_2149

Sent to matt.solinsky@desertsun.com (The Desert Sun) and tips@patch.com (Palm Desert Patch) on October 26, 2015

Mario Lopez (CPA 83229) and L&L Accounting and Tax, Cathedral City, CA (FNP 2018) have been disciplined by the California Board of Accountancy. Please utilize the attached links to the California Board of Accountancy's Web page to access details of these enforcement actions. Please contact Patti Bowers, Executive Officer, by telephone at (916) 561-1718 or by e-mail at pbowers@cba.ca.gov should you have any questions regarding these enforcement actions.

http://www.dca.ca.gov/cba/discipline/index.shtml#L_1995

http://www.dca.ca.gov/cba/discipline/index.shtml#L_1996

Sent to Diana.mccabe@utsandiego.com and local@utsandiego.com (The San Diego Tribune) on October 26, 2015

Peter Issac Mann (CPA 26652) and Mann Accountancy Corporation, San Diego, CA (COR 982) have been disciplined by the California Board of Accountancy. Please utilize the attached links to the California Board of Accountancy's Web page to access details of these enforcement actions. Please contact Patti Bowers, Executive Officer, by telephone at (916) 561-1718 or by e-mail at pbowers@cba.ca.gov should you have any questions regarding these enforcement actions.

http://www.dca.ca.gov/cba/discipline/index.shtml#M_2112

http://www.dca.ca.gov/cba/discipline/index.shtml#M_2113

Sent to business@latimes.com and Brian.Thevenot@latimes.com (The Los Angeles Times), Greg.Wilcox@langnews.com (LA Daily News) and tips@patch.com (Northridge-Chatsworth Patch) on October 26, 2015

Carmen Denise Mosley (CPA 75691) and C. Mosley & Associates, An Accountancy Corporation, Granada Hills, CA (COR 5242) have been disciplined by the California Board of Accountancy. Please utilize the attached links to the California Board of Accountancy's Web page to access details of these enforcement actions. Please contact Patti Bowers, Executive Officer, by telephone at (916) 561-1718 or by e-mail at pbowers@cba.ca.gov should you have any questions regarding these enforcement actions.

http://www.dca.ca.gov/cba/discipline/index.shtml#M_2098

http://www.dca.ca.gov/cba/discipline/index.shtml#C_2099

Sent to metro@sacbee.com (The Sacramento Bee) and tips@patch.com (Roseville Patch) on October 26, 2015

Richard Gordon Pappin, Rocklin, CA (CPA 13522) has been disciplined by the California Board of Accountancy. Please utilize the attached link to the California Board of Accountancy's Web page to access details of this enforcement action. Please contact Patti Bowers, Executive Officer, by telephone at (916) 561-1718 or by e-mail at pbowers@cba.ca.gov should you have any questions regarding this enforcement action.

http://www.dca.ca.gov/cba/discipline/index.shtml#P_2100

Sent to news@pe.com (Riverside Press Enterprise) and tips@patch.com (Lake Elsinore-Wildmar Patch) on October 26, 2015

Anne Marie Rienenrth, Lake Elsinore, CA (CPA 103053) has been disciplined by the California Board of Accountancy. Please utilize the attached link to the California Board of Accountancy's Web page to access details of this enforcement action. Please contact Patti Bowers, Executive Officer, by telephone at (916) 561-1718 or by e-mail at pbowers@cba.ca.gov should you have any questions regarding this enforcement action.

http://www.dca.ca.gov/cba/discipline/index.shtml#R_2102

Sent to jmoore@vcstar.com (Ventura County Star) and tips@patch.com (Moorpark Patch) on October 26, 2015

Ronald Carey Shirley, Simi Valley, CA (CPA 32646) has been disciplined by the California Board of Accountancy. Please utilize the attached link to the California Board of Accountancy's Web page to access details of this enforcement action. Please contact Patti Bowers, Executive Officer, by telephone at (916) 561-1718 or by email at pbowers@cba.ca.gov should you have any questions regarding this enforcement action.

http://www.dca.ca.gov/cba/discipline/index.shtml#S_2120

Sent to business@latimes.com and Brian.Thevenot@latimes.com (The Los Angeles Times) on October 26, 2015

Jake Roy Sonney, Los Angeles, CA (CPA 107129) has been disciplined by the California Board of Accountancy. Please utilize the attached link to the California Board of Accountancy's Web page to access details of this enforcement action. Please contact Patti Bowers, Executive Officer, by telephone at (916) 561-1718 or by e-mail at pbowers@cba.ca.gov should you have any questions regarding this enforcement action.

http://www.dca.ca.gov/cba/discipline/index.shtml#S_2104

Sent to lhenry@bakersfield.com (The Bakersfield Californian) on October 26, 2015

Gary Jean Tedder, aka Garold J. Tedder, Bakersfield, CA (CPA 26742) has been disciplined by the California Board of Accountancy. Please utilize the attached link to the California Board of Accountancy's Web page to access details of this enforcement action. Please contact Patti Bowers, Executive Officer, by telephone at (916) 561-1718 or by email at pbowers@cba.ca.gov should you have any questions regarding this enforcement action.

http://www.dca.ca.gov/cba/discipline/index.shtml#T_2006

Sent to pe.com (Riverside Press Enterprise) and tips@patch.com (Murrieta Patch) on October 26, 2015

Richard Allen Turnblad, Murrieta, CA (CPA 21107) has been disciplined by the California Board of Accountancy. Please utilize the attached link to the California Board of Accountancy's Web page to access details of this enforcement action. Please contact Patti Bowers, Executive Officer, by telephone at (916) 561-1718 or by e-mail at pbowers@cba.ca.gov should you have any questions regarding this enforcement action.

http://www.dca.ca.gov/cba/discipline/index.shtml#T_2007