



California Board of Accountancy
2450 Venture Oaks Way, Suite 300
Sacramento, CA 95833

phone: (916) 263-3680 *fax:* (916) 263-3675 *web:* www.cba.ca.gov



**CALIFORNIA BOARD OF ACCOUNTANCY (CBA)
PUBLIC MEETING NOTICE FOR THE ENFORCEMENT PROGRAM OVERSIGHT
COMMITTEE, LEGISLATIVE COMMITTEE, AND CALIFORNIA
BOARD OF ACCOUNTANCY MEETINGS**

DATE: Thursday, January 17, 2019

**ENFORCEMENT PROGRAM OVERSIGHT
COMMITTEE MEETING**

TIME: 9:00 a.m.

DATE: Thursday, January 17, 2019

LEGISLATIVE COMMITTEE MEETING

TIME: 9:15 a.m.

Or upon adjournment of the Enforcement
Program Oversight Committee Meeting.

DATE: Thursday, January 17, 2019

**CALIFORNIA BOARD OF ACCOUNTANCY
MEETING**

TIME: 9:45 a.m.

Or upon adjournment of the Legislative
Committee Meeting.

PLACE: California Board of Accountancy
2450 Venture Oaks Way, Suite 420
Sacramento, CA 95833
Telephone: (916) 263-3680

Enclosed for your information is a copy of the agendas for the Enforcement Program Oversight Committee, Legislative Committee, and California Board of Accountancy meetings on January 17, 2019.

Committee and CBA meetings will commence at 9:00 a.m. or later. The order and/or start times of the committee meetings and the CBA meeting are subject to change without notice.

For further information regarding these meetings, please contact:

Rebecca Reed, Board Relations Analyst
(916) 561-1716 or rebecca.reed@cba.ca.gov
California Board of Accountancy
2450 Venture Oaks Way, Suite 300
Sacramento, CA 95833

An electronic copy of this notice can be found at <http://www.dca.ca.gov/cba/about-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 Rebecca Reed at (916) 561-1716, or email rebecca.reed@cba.ca.gov, or send a written request to the California Board of Accountancy at 2450 Venture Oaks Way, Suite 300, Sacramento, CA 95833. 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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CBA MISSION: To protect consumers by ensuring only qualified licensees practice public accountancy in accordance with established professional standards

**DEPARTMENT OF CONSUMER AFFAIRS
 ENFORCEMENT PROGRAM OVERSIGHT COMMITTEE**

**MEETING AGENDA
 January 17, 2019
 9:00 a.m.**

**California Board of Accountancy
 2450 Venture Oaks Way, Suite 420
 Sacramento, CA 95833
 Telephone: (916) 263-3680**

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. Identified presenters are subject to change. The meeting may be canceled 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, and Opening Remarks (Nancy J. Corrigan, CPA, Chair).	
I. Approve Minutes of the March 22, 2018 Enforcement Program Oversight Committee Meeting.	XI.B.
II. Discussion and Possible Action Regarding Proposed Changes to Title 16, California Code of Regulations Section 98, Disciplinary Guidelines and Model Orders; Section 99, Substantial Relationship Criteria; and Section 99.1, Rehabilitation Criteria for Denials, Suspensions, Revocations, Restorations, Reduction of Penalty (Dominic Franzella, Chief, Enforcement Division).	X.A.2.
III. Public Comments.*	
IV. Agenda Items for Next Meeting.	
Adjournment	

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.

*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.

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 Rebecca Reed at (916) 561-1716, or email rebecca.reed@cba.ca.gov, or send a written request to the California Board of Accountancy Office at 2450 Venture Oaks Way, Suite 300, Sacramento, CA 95833. Providing your request at least five (5) business days before the meeting will help to ensure availability of the requested accommodation.



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

MEETING AGENDA
Thursday, January 17, 2019
9:15 a.m.

California Board of Accountancy
2450 Venture Oaks Way, Suite 420
Sacramento, CA 95833
Telephone: (916) 263-3680

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 Legislative Committee Chair. Identified presenters are subject to change. The meeting may be canceled 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 (Luz Molina Lopez, Chair).	
I.	Approve Minutes of the July 26, 2018 Legislative Committee Meeting.	XI.C.
II.	Overview of the California Legislative and Regulatory Process and the Legislative Committee’s Role (Aaron Bone, Information and Planning Officer).	X.B.2.
III.	Update on Legislative Proposal for Inclusion in the 2019 Annual Omnibus Bill – Business and Professions Code Section 5100.1 – Determining Discipline: Certified or True and Correct Copies of Action (Aaron Bone).	X.B.3.

- IV. Update on the California Board of Accountancy's Sunset Review (Aaron Bone). X.B.4.
- V. Review and Possible Consideration of Positions on Legislation the California Board of Accountancy is Monitoring (Aaron Bone). X.B.5.a-h.
- A. Assembly Bill 3 – Cannabis: Sale to Minors.
 - B. Assembly Bill 25 – California Consumer Privacy Act of 2018.
 - C. Assembly Bill 37 – Personal Income Taxes: Deductions: Business Expenses: Commercial Cannabis Activity.
 - D. Assembly Bill 63 – State Government.
 - E. Assembly Bill 141 – Cannabis: Informational, Educational, or Training Events.
 - F. Senate Bill 34 – Cannabis: Donations.
 - G. Senate Bill 51 – Financial Institutions: Cannabis.
 - H. Senate Bill 53 – Open Meetings.
- VI. Public Comments.*
- VII. Agenda Items for Next Meeting.

Adjournment

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 or technical difficulties.

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

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 Rebecca Reed at (916) 561-1716, or email rebecca.reed@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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**DEPARTMENT OF CONSUMER AFFAIRS
 CALIFORNIA BOARD OF ACCOUNTANCY**

MEETING AGENDA

**January 17, 2019
 9:45 a.m. – 5:00 p.m.
 Or Upon Adjournment of the
 Legislative Committee Meeting**

**California Board of Accountancy
 2450 Venture Oaks Way, Suite 420
 Sacramento, CA 95833
 Telephone: (916) 263-3680**

Important Notice to the Public

All times indicated, other than those identified as “time certain,” are approximate and subject to change. Action may be taken on any item on the agenda. Agenda items may be discussed and action taken out of order at the discretion of the California Board of Accountancy President for convenience, to accommodate speakers, or to maintain a quorum. For example, agenda items scheduled for a particular day may be moved to another day. Identified presenters are subject to change. The meeting may be canceled 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>.

**Thursday,
 January 17, 2019**

Call to Order, Roll Call, Establishment of Quorum, and Opening Remarks (**George Famalett, CPA, President**).

**9:45 a.m. –
 11:05 a.m.**

I. Report of the President (**George Famalett, CPA**).

- A. Resolution for Retired California Board of Accountancy Member Youngsun “Sunny” Park, Esq.
- B. Report of the Leadership Roundtable Meeting Regarding Leadership Responsibilities and the California Board of Accountancy Activities for 2019.
- C. Announcement of California Board of Accountancy Leadership Award of Excellence.
- D. Announcement of the New Committee and Liaison Assignments **(Written Report Only)**.
- E. Discussion and Possible Approval of the 2019-2021 California Board of Accountancy Strategic Plan **(Deanne Pearce, Assistant Executive Officer)**.
- F. Discussion Regarding the National Association of State Boards of Accountancy Exposure Draft Regarding Model Rule 5-7 Retake and Granting of Credit Requirements **(Deanne Pearce, Assistant Executive Officer)**.
- G. Discussion and Possible Adoption of the Proposed 2020 California Board of Accountancy Meeting Dates and Locations **(Rebecca Reed, Board Relations Analyst)**.
- H. Presentation on Information Security Practices for the California Board of Accountancy **(Dave Hansen, Systems Administrator)**.
- I. Developments Since the February 2015 United States Supreme Court Decision: North Carolina State Board of Dental Examiners v. Federal Trade Commission **(Ileana Butu, Department of Consumer Affairs, Attorney III)**.
- J. Department of Consumer Affairs Director’s Report on Departmental Activities **(Department of Consumer Affairs Representative, Office of Board and Bureau Services)**.

11:05 a.m. –
11:10 a.m.

- II. Report of the Vice-President **(Mark J. Silverman, Esq., Vice-President)**.
 - 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.

11:10 a.m. –
11:30 a.m.

- III. Report of the Secretary/Treasurer (**Nancy J. Corrigan, CPA, Secretary/Treasurer**).
 - A. Discussion of the Governor’s Budget.
 - B. Overview of the Budget Process (**Robert de los Reyes, Department of Consumer Affairs, Budget Manager**).
- IV. Report of the Executive Officer (**Patti Bowers, Executive Officer**).

11:30 a.m. –
11:50 a.m.

- A. Update on Staffing.
- B. Review and Approval of Proposed Changes to the California Board of Accountancy Member Guidelines and Procedures Manual (**Deanne Pearce, Assistant Executive Officer**).
- C. Discussion Regarding Planning Efforts to Transition to Primarily Electronic Publication and Distribution of UPDATE (**Aaron Bone, Information and Planning Officer**).
- D. Update on the California Board of Accountancy’s Communications and Outreach (**Aaron Bone, Information and Planning Officer**).

11:50 a.m. –
12:00 p.m.

- V. Report on the Enforcement Advisory Committee, Qualifications Committee, and Peer Review Oversight Committee.
 - A. Enforcement Advisory Committee (**Joseph Rosenbaum, CPA, Committee Chair**).
 - 1. Report of the December 6, 2018, Enforcement Advisory Committee Meeting.
 - B. Qualifications Committee (**Kimberly Sugiyama, CPA, Committee Chair**).

There is no report on this agenda item.
 - C. Peer Review Oversight Committee (**Jeffrey De Lyser, CPA, Committee Chair**).
 - 1. Report of the December 7, 2018, Peer Review Oversight Committee Meeting.

- 12:00 p.m. –
12:30 p.m.
- VI. Report of the Enforcement Chief (**Dominic Franzella, Chief, Enforcement Division**).
- A. Enforcement Activity Report.
- B. Overview of the Enforcement Process and Petition Hearings (**Dominic Franzella, Chief, Enforcement Division**).
- 12:30 p.m. –
1:30 p.m.
- Lunch.
- 1:30 p.m. –
2:15 p.m.
Time Certain
- VII. Petition Hearing.
- A. Paul Franklin Spann, CPA License Number 80909 – Petition for Termination of Probation and Reinstatement of CPA License Number 80909.
- VIII. Closed Session: Pursuant to Government Code Section 11126(c)(3), the California Board of Accountancy will Convene into Closed Session to Deliberate on the Above Petition.
- 2:15 p.m. –
2:30 p.m.
- IX. Report of the Licensing Chief (**Gina Sanchez, Chief, Licensing Division**).
- A. Licensing Activity Report.
- 2:30 p.m. –
2:50 p.m.
- X. Report on the Enforcement Program Oversight Committee, and Legislative Committee.
- A. Enforcement Program Oversight Committee (**Nancy J. Corrigan, CPA, Committee Chair**).
1. Report of the January 17, 2019, Enforcement Program Oversight Committee Meeting.
 2. Discussion and Possible Action Regarding Proposed Changes to Title 16, California Code of Regulations Section 98, Disciplinary Guidelines and Model Orders; Section 99, Substantial Relationship Criteria; and Section 99.1, Rehabilitation Criteria for Denials, Suspensions, Revocations, Restorations, Reduction of Penalty.
- B. Legislative Committee (**Luz Molina Lopez, Committee Chair**).
1. Report of the January 17, 2019, Legislative Committee Meeting.
 2. Overview of the California Legislative and Regulatory Process and the Legislative Committee's Role.

3. Update on Legislative Proposal for Inclusion in the 2019 Annual Omnibus Bill – Business and Professions Code Section 5100.1 – Determining Discipline: Certified or True and Correct Copies of Action.
4. Update on the California Board of Accountancy’s Sunset Review.
5. Review and Possible Consideration of Positions on Legislation the California Board of Accountancy is Monitoring.
 - a. Assembly Bill 3 – Cannabis: Sale to Minors.
 - b. Assembly Bill 25 – California Consumer Privacy Act of 2018.
 - c. Assembly Bill 37 – Personal Income Taxes: Deductions: Business Expenses: Commercial Cannabis Activity.
 - d. Assembly Bill 63 – State Government.
 - e. Assembly Bill 141 – Cannabis: Informational, Educational, or Training Events.
 - f. Senate Bill 34 – Cannabis: Donations.
 - g. Senate Bill 51 – Financial Institutions: Cannabis.
 - h. Senate Bill 53 – Open Meetings.

2:50 p.m. –
2:55 p.m.

- XI. Meeting Minutes (**George Famalett, CPA, President**).
 - A. Adoption of the Minutes of the November 15, 2018, California Board of Accountancy Meeting.
 - B. Acceptance of the Minutes of the March 22, 2018, Enforcement Program Oversight Committee Meeting.
 - C. Acceptance of the Minutes of the July 26, 2018, Legislative Committee Meeting.
 - D. Acceptance of the Minutes of the October 18, 2018, Enforcement Advisory Committee Meeting.
 - E. Acceptance of the Minutes of the August 17, 2018, Peer Review Oversight Committee Meeting.

2:55 p.m. –
3:10 p.m.

XII. Other Business.

A. American Institute of Certified Public Accountants.

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

a. State Board Committee (**Katrina L. Salazar, CPA**).

B. National Association of State Boards of Accountancy.

1. Report of the National Association of State Boards of Accountancy Pacific Regional Director (**Katrina L. Salazar, CPA**).
2. Discussion and Possible Ratification of Staff Responses to the National Association of State Boards of Accountancy's Focus Questions (**Rebecca Reed, Board Relations Analyst**).
3. Report on Meetings of the National Association of State Boards of Accountancy Attended by a California Board of Accountancy Member or Staff.

a. Bylaws Committee
(**Katrina L. Salazar, CPA**).

b. Diversity Committee
(**Carola A. Nicholson, CPA**).

3:10 p.m. –
3:15 p.m.

XIII. Closing Business.

A. Public Comments.*

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

3:15 p.m. –
5:00 p.m.

XIV. Closed Session: Pursuant to Government Code Section 11126(c)(3), the California Board of Accountancy Will Convene Into Closed Session to Deliberate on Enforcement Matters.

XV. Closed Session: Pursuant to Government Code Section 11126(e), the California Board of Accountancy Will Convene Into Closed Session to Receive Advice From Legal Counsel on Litigation.

A. *Sam Walker and Sam Walker CPA, Inc. v. Department of Consumer Affairs, California Board of Accountancy, and the Office of Administrative Hearings*, Los Angeles County Superior Court, Case No. BS171533.

- B. *Lanfeng Zhao and ELZ Accountancy Corporation v. California Board of Accountancy*, Los Angeles Superior Court, Case No. 18STCP02951.
- C. *Lowell A. Baisden v. Patti Bowers Executive Office Board of Accountancy Department of Consumer Affairs State of California, Evan J. Geilenkirchen, and Jane M. Geilenkirchen*, Fifth Appellate District Court of Appeal, Case No. F076662.
- D. *Subramaniam Easwara Ramanan and Neeka Accountancy Corporation v. California Board of Accountancy Department of Consumer Affairs State of California*, Sixth District Court of Appeal, Case No. H041566.

Return to Open Session.

Adjournment.

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Department of Consumer Affairs

California Board of Accountancy



RESOLUTION

WHEREAS, Youngsun “Sunny” Park, Esq., was appointed by the Senate Rules Committee and she has faithfully served as a Board member of the California Board of Accountancy from January 11, 2017 through November 7, 2018; and

WHEREAS, she served as a member on the Committee on Professional Conduct, and California Board of Accountancy member liaison to the Peer Review Oversight Committee; and

WHEREAS, throughout her term of service, at all times Youngsun “Sunny” Park gave fully of herself and her ideas and acted forthrightly and conscientiously, always with the public interest and welfare in mind; and

WHEREAS, she has served as President of the Orange County Korean American Bar Association and served as a tax advisor for the Korean General Consulate Office’s Customs and Tax Advisory Committee; and

WHEREAS, Youngsun “Sunny” Park is the principal partner of Park and Asher Law where she focuses on estate planning, gift, and estate tax planning, family succession, and wealth planning; and

NOW, THEREFORE, BE IT RESOLVED, that the members of the California Board of Accountancy express heartfelt appreciation to Youngsun “Sunny” Park for the outstanding contribution she made during her term of service on the California Board of Accountancy and to the consumers of California.

George Famalett, CPA, President

Nancy J. Corrigan, CPA, Secretary/Treasurer

Dated: January 17, 2019

CBA AND COMMITTEE MEMBER ROSTER

2019 Committee Assignments

CBA Item I.D.
January 17, 2019



CBA MEMBERS

George Famalett, CPA, President
Mark J. Silverman, Esq., Vice-President
Nancy J. Corrigan, CPA, Secretary/Treasurer
Alicia Berhow
Jose A. Campos, CPA
Mary M. Geong, CPA
Karriann Farrell Hinds, Esq.
Dan Jacobson, Esq.
Xochitl León
Luz Molina Lopez
Carola A. Nicholson, CPA
Deidre Robinson
Katrina L. Salazar, CPA
Michael M. Savoy, CPA
Vacant

Staff: Rebecca Reed
(916) 561-1716

CBA Committees

CPC – Committee on Professional Conduct
EPOC – Enforcement Program Oversight Committee
LC – Legislative Committee
SPC – Strategic Planning Committee

Advisory Committees

EAC – Enforcement Advisory Committee
PROC – Peer Review Oversight Committee
MSG – Mobility Stakeholder Group
QC – Qualifications Committee

CBA COMMITTEES

CPC

Dan Jacobson, Esq., Chair
Jose A. Campos, CPA
Mary M. Geong, CPA
Xochitl León
Luz Molina Lopez
Carola A. Nicholson, CPA
Deidre Robinson

Staff: Aaron Bone
(916) 561-1792

EPOC

Nancy J. Corrigan, CPA, Chair
Alicia Berhow
Karriann Farrell Hinds, Esq.
Dan Jacobson, Esq.
Katrina L. Salazar, CPA
Michael M. Savoy, CPA
Mark J. Silverman, Esq.

Staff: Siek Run
(916) 561-4366

LC

Luz Molina Lopez, Chair
Alicia Berhow
Nancy J. Corrigan, CPA
Karriann Farrell Hinds, Esq.
Mary M. Geong, CPA
Carola A. Nicholson, CPA
Deidre Robinson

Staff: Aaron Bone
(916) 561-1792

SPC

Update on Strategic Plan activities will be presented to the full CBA in 2019.

Staff: Rebecca Reed
(916) 561-1716

ADVISORY COMMITTEES

EAC

Joseph Rosenbaum, CPA, Chair
Doug Aguilera, CPA, Vice-Chair
Jeffrey De Lyser, CPA
William Donnelly, CPA
Thomas Gilbert, CPA
Kathy A. Johnson, CPA
Mike Johnson, CPA
José Palma, CPA
Nasi Raissian, CPA
Jim Songey, CPA
Vacant
Vacant
Vacant

CBA Member Liaisons:
Jose A. Campos, CPA (Northern)
Nancy J. Corrigan, CPA (Southern)

Staff: Denise Murata
(916) 561-1730

PROC

Jeffrey De Lyser, CPA, Chair
Renee Graves, CPA, Vice-Chair
Kevin Harper, CPA
Alan S. Lee, CPA
Sharon Selleck, CPA
Fiona Tam, CPA
Vacant

CBA Member Liaisons:
Mary M. Geong, CPA (Northern)
Katrina L. Salazar, CPA (Northern)

Staff: Siek Run
(916) 561-4366

MSG

Appointments Under Review

Staff: Alina Shev
(916) 561-1727

QC

Kimberly Sugiyama, CPA, Chair
Angela Honzik, CPA, Vice-Chair
Joanna Bolsky, CPA
Pradeep Budhiraja, CPA
David Evans, CPA
Kristian George, CPA
Charles W. Hester, Sr., CPA
Brad Holsworth, CPA
Cliff J. Leiker, Jr., CPA
José Palma, CPA
Nasi Raissian, CPA
Michael L. Williams, CPA
Vacant

CBA Member Liaisons:
Jose A. Campos, CPA (Northern)
Karriann Farrell Hinds, Esq. (Southern)

Staff: Ashley Delle
(916) 561-1756



California Board of Accountancy
2450 Venture Oaks Way, Suite 300
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CBA Item I.E.
January 17, 2019

Discussion and Possible Approval of the 2019-2021 California Board of Accountancy Strategic Plan

Presented by: Deanne Pearce, Assistant Executive Officer

Purpose of the Item

The purpose of this agenda item is to present the California Board of Accountancy (CBA) with the draft 2019-2021 CBA Strategic Plan (Strategic Plan) (**Attachment 1**).

Consumer Protection Objectives

The CBA strategic plan sets goals and objectives designed to aid the CBA in meeting its consumer protection mission.

Action(s) Needed

The CBA will be asked to review the draft Strategic Plan and approve or recommend any changes.

Background

Every three years, the CBA undertakes a process to review, update, and develop its Strategic Plan. The Strategic Plan serves as a guide in identifying goals and objectives to complete for future years in accordance with its consumer protection mandate.

In mid-2018, the CBA, in collaboration with Department of Consumer Affairs' (DCA) SOLID Planning Solutions Unit, began preliminary work on the development of the Strategic Plan. An environmental scan was prepared by DCA SOLID following CBA member interviews and surveys that were completed by various CBA stakeholders.

During the September 2018 CBA meeting, a strategic planning workshop was conducted and the CBA identified and discussed possible objectives for the Strategic Plan.

Comments

Following the September 2018 CBA strategic planning workshop, the DCA SOLID unit incorporated all CBA member ideas and comments as objectives into the draft Strategic Plan.

Discussion and Possible Approval of the 2019-2021 California Board of Accountancy Strategic Plan

Page 2 of 2

Management reviewed the draft Strategic Plan. As a result of that review, the “About the Board” section was updated for consistency with other publications and clarifications were made to the proposed objectives.

CBA input is requested to approve the Strategic Plan or modify the proposed objectives, specifically the following:

Page 5 – Objective 1.5

Page 8 – Objective 4.7

Page 9 – Objectives 5.1 and 5.2

A status on the 2016-2018 Strategic Plan objectives (**Attachment 2**) is included for the CBA to reference as the Strategic Plan is being finalized.

Fiscal/Economic Impact Considerations

There are no fiscal/economic impact considerations.

Recommendation

Staff recommend that the CBA provide any edits or suggested changes to the Strategic Plan and make a motion to approve the Strategic Plan, delegating authority to the CBA President to approve should any final changes be necessary.

Attachments

1. Proposed 2019-2021 California Board of Accountancy Strategic Plan
2. Status of Objectives from the 2016-2018 California Board of Accountancy Strategic Plan



CALIFORNIA BOARD
OF ACCOUNTANCY
STRATEGIC PLAN
2019-2021

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DRAFT

Members of the California Board of Accountancy

George Famalett, CPA, President

Mark J. Silverman, Esq., Vice-President

Nancy J. Corrigan, CPA, Secretary/Treasurer

Alicia Berhow

Jose A. Campos, CPA

Mary M. Geong, CPA

Karriann Farrell Hinds, Esq.

Dan Jacobson, Esq.

Xochitl A. León

Luz Molina Lopez

Carola A. Nicholson, CPA

Deidre Robinson

Katrina Salazar, CPA

Michael M. Savoy, CPA

Gavin Newsom, Governor

Alexis Podesta, Secretary, Business, Consumer Services, and Housing Agency

Dean R. Grafilo, Director, Department of Consumer Affairs

Patti Bowers, Executive Officer, California Board of Accountancy

About the Board

For over 100 years, the California Legislature has entrusted the California Board of Accountancy (CBA) with protecting the public related to the practice of public accountancy in California. The CBA's mission evokes this charge: "To protect consumers by ensuring only qualified licensees practice public accountancy in accordance with applicable professional standards."

The breadth of the CBA's influence in the regulatory environment stretches beyond California's borders. The CBA regulates over 105,000 licensees, including individuals (certified public accountants and public accountants) and accounting firms (partnerships and corporations). Many of the accounting firms that the CBA regulates have national footprints and some with footprints worldwide. Certified Public Accountants (CPAs) work in a wide range of areas including, accounting firms, private industry, government, and academia, and provide services to clients of all sizes and needs.

The CBA recognizes the scope of its regulatory influence. With stakeholders ranging from consumers needing accounting services; lenders, shareholders, and investors that rely on services rendered by CPAs; and businesses – large and small – that use CPAs to establish internal accounting controls (to name a few), the protection of the public shapes the policies, regulations, and enforcement decisions reached by the CBA.

Mission

To protect consumers by ensuring only qualified licensees practice public accountancy in accordance with established professional standards.

Vision

All consumers are well-informed and receive quality accounting services from licensees they can trust.

Values

CONSUMER PROTECTION – The CBA will make effective and informed decisions in the best interest and for the safety of consumers.

INTEGRITY – The CBA will act in an honest, ethical, and professional manner in all endeavors and fully disclose all pertinent information.

QUALITY AND PROFESSIONALISM – The CBA will ensure that qualified, proficient, and skilled staff provide services to CBA stakeholders. The CBA will deliver high quality service, information, and products that reflect excellence and professionalism.

TRANSPARENCY – The CBA will actively promote the sharing of ideas and information throughout the organization and with the public and be receptive to new ideas.

INITIATIVE – The CBA will encourage creatively looking at problems and processes and actively seek solutions and improvements.

RESPECT – The CBA will be responsive, considerate, and courteous to all, both within and outside the organization.

ACCOUNTABILITY – The CBA will take ownership and responsibility for its actions and their results.

TEAMWORK – The CBA will promote cooperation and trust at all levels by working with and soliciting the ideas and opinions of CBA stakeholders.

2019-2021 Strategic Plan Goals

Goal 1: Enforcement

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

- 1.1 Inform stakeholders on enforcement efforts being performed regarding unlicensed practice.
- 1.2 Maintain adequate staffing to support efficient case management.
- 1.3 Acquire leading technologies for case management and simplify the process to reduce case completion timeframes.
- 1.4 Reduce the average number of days to complete the enforcement process for those matters resulting in formal discipline, consist with Department of Consumer Affairs' Formal Enforcement Performance Measures.

STAFF RECOMMEND CBA MEMBER CLARIFICATION OR REMOVAL OF THE FOLLOWING OBJECTIVE:

- 1.5 Review our enforcement process for firms of various sizes and their members to protect consumers.

Goal 2: Licensing

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

- 2.1 Review and amend, if necessary, licensing requirements to accommodate evolving education methodologies used by colleges and universities.
- 2.2 Obtain adequate staffing resources to process examination, licensure, and renewal applications within 30 days.
- 2.3 Update the content on the CBA website, including the use of videos and interactive tools, to provide clear guidance to applicants and licensees.

DRAFT

Goal 3: Customer Service

Deliver the highest level of customer service.

- 3.1 Use the CBA Stakeholder Survey and Department of Consumer Affairs' Consumer Survey to identify areas of improvement to provide the highest level of service.
- 3.2 Improve online stakeholder services that will increase operational efficiency and customer access.

DRAFT

Goal 4: Outreach

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

- 4.1 Increase communications to stakeholders to better inform them regarding CBA activities including, but not limited to, succession planning and information security.
- 4.2 Maintain partnerships with professional organizations, academic organizations, colleges, universities, and other regulatory bodies to share information regarding the CBA and its consumer protection mandate.
- 4.3 Leverage social media resources to engage and inform stakeholders.
- 4.4 Educate licensees on common violations of the Accountancy Act and CBA Regulations via the CBA's UPDATE publication.
- 4.5 Collaborate with state and national organizations regarding the peer reviewer population and ensure the peer review program is maintained and continues to protect consumers.
- 4.6 Formulate a communication strategy surrounding the mission of the CBA to improve stakeholders' understanding of its public policy efforts.

STAFF RECOMMEND CBA MEMBER CLARIFICATION OR REMOVAL OF THE FOLLOWING OBJECTIVE:

- 4.7 Collaborate with stakeholders to support CBA candidacy for future generations to protect consumers and the integrity of the training being given.

Goal 5: Laws and Regulations

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

- 5.1 Work with the Department of Consumer Affairs to develop more frequent access to staff training on the rulemaking process.
- 5.2 Work with the Department of Consumer Affairs and other control agencies to reduce the time required to complete the rulemaking process.

DRAFT

Goal 6: Emerging Technologies

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

- 6.1 Collaborate with the Department of Consumer Affairs to build and implement an Information Technology solution that will provide automated and on-line services to CBA stakeholders.
- 6.2 Monitor compliance with Department of Consumer Affairs' and California Department of Technology's policies to ensure the security of electronic information.

DRAFT

Goal 7: Organizational Effectiveness

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

7.1 Analyze and identify professional development and training opportunities for staff to preserve institutional knowledge and retain staff.

DRAFT

Prepared by SOLID Planning Solutions
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Status of Objectives from the 2016-2018 California Board of Accountancy Strategic Plan

Attachment 2

Goal 1: Enforcement		
<i>Maintain an active, and efficient program to maximize consumer protection.</i>		
#	Objective	Status
1.1	Reduce the average number of days to complete the enforcement process for those matters resulting in formal discipline to meet the DCA Formal Discipline Performance Measures.	IN PROCESS With increased collaboration with the Attorney General's Office and through revised best practices employed by the CBA, the CBA has experienced a marked improvement in the inventory pending at the Attorney General's Office. This has resulted in an improvement to the performance measure associated with formal discipline.
1.2	Evaluate enforcement procedures and apply best practices to reduce overall processing timeframes.	COMPLETED The CBA performed a significant restructure of its Enforcement Program in the furtherance of its mission to protect consumers. The CBA has experienced significant improvements in the Enforcement Program because of the restructure and has reduced overall processing timeframes.
1.3	Increase the number of supervisory level positions through the Budget Change Proposal (BCP) process to address increased staff and workload.	COMPLETED The CBA accomplished this via re-classification and redirection of positions.
1.4	Increase collaboration with other regulatory agencies and other state boards of accountancy to enhance CBA's consumer protection efforts.	COMPLETED The CBA has increased collaboration with other regulatory agencies and other state boards of accountancy to enhance CBA's consumer protection efforts. Agencies such as the SEC, PCAOB, DOL, FTB and other state boards of accountancy regularly work collaboratively with the CBA.
1.5	Establish enforcement best practices and procedures for California's practice privilege ¹ provisions consistent with its mission to protect consumers.	COMPLETED The CBA has established enforcement best practices and procedures for California's practice privilege provisions consistent with its mission to protect consumers. With the restructure of its Enforcement Program the best practices for California's practice privilege were revised. These best practices were further revised when Senate Bill 795 (Chapter 447, Statutes of 2018) was passed by the Legislature and signed into law by Governor Brown making the mobility program permanent.

¹ Practice Privilege allows those holding a valid and current license, certificate or permit from another state to practice public accountancy in California without notice or submission of a fee.

Goal 2: Licensing <i>Maintain an active, and efficient program that maximizes customer service to Uniform CPA Examination candidates, applicants for CPA licensure, and licensees.</i>		
#		Status
2.1	Review and amend licensing requirements, if necessary, to accommodate evolving education methodologies used by colleges and universities.	CONTINUED No changes made to licensing requirements during 2016-2018. This objective was carried over to the 2019-2021 Strategic Plan.
2.2	Ensure adequate resources to process examination, licensure, and renewal applications within 30 days.	COMPLETED The CBA is presently processing applications within 30 days. However, additional permanent resources have been requested to ensure sufficient staffing exist levels in the future to maintain reduced processing timeframes.

Goal 3: Customer Service <i>Deliver the highest level of customer service.</i>		
#	Objective	Status
3.1	Assess consumer and stakeholder satisfaction feedback to identify areas of improvement to provide the highest level of service.	COMPLETED This objective will continue to be done to ensure a high level of customer service for CBA stakeholders.
3.2	Improve online tools and activities for all stakeholders to increase operational efficiency and customer access.	COMPLETED Online license renewal was implemented; however, additional online tools are under development. This objective is included in the 2019-2021 Strategic Plan.

Goal 4: Outreach <i>Provide and maintain effective and timely outreach to all stakeholders.</i>		
#	Objective	Status
4.1	Expand partnerships with professional organizations, academic organizations, colleges and universities, and other regulatory bodies to share information regarding the CBA and its consumer protection mission.	COMPLETED The CBA has developed new relationships with California colleges/universities and furthered its relationship with California Society of CPAs to expand outreach opportunities. This will continue to grow as the CBA increases its outreach.
4.2	Leverage social media resources to engage and inform stakeholders.	COMPLETED The CBA regularly uses Facebook, Twitter, and LinkedIn to communicate to stakeholders.
4.3	Educate licensees on common violations of the Accountancy Act and CBA Regulations via the CBA's UPDATE publication.	COMPLETED Information is regularly included in the CBA's UPDATE publication to educate and inform licensees.
4.4	Address CBA members' and staff's ability to have more flexibility to provide outreach and education to stakeholders.	COMPLETED The CBA has been successful at obtaining approval for out-of-state travel by providing solid justification regarding the benefits to the State of California and consumers.

Goal 5: Laws and Regulations*Maintain an active presence and leadership role that efficiently leverages the CBA's position of legislative influence.*

#		Status
5.1	Continue to promote the CBA's position on legislation and public policy consistent with the CBA's goals and objectives.	COMPLETED The CBA advocated for legislation consistent with its policy objectives. Recent successes include the passage of SB 795 and amendments that were secured in AB 2138.
5.2	Increase the CBA's visibility and reputation with the Legislature.	COMPLETED The CBA's advocacy has increased our visibility and reputation with the Legislature. Recent successes include the passage of SB 795 and amendments that were secured in AB 2138.

Goal 6: Emerging Technologies*Improve efficiency and information security through use of existing and emerging technologies.*

#	Objective	Status
6.1	Monitor BreEZe ² implementation progress for phase three and work with the DCA to develop a contingency plan to evaluate other technology solutions should BreEZe be delayed. Other technology solutions should ensure functionality and operational efficiency in response to consumer and licensee needs.	IN PROCESS BreEZe Release 3 boards are now working on a Business Modernization Project targeted for implementation in fiscal year (FY) 2021-22. In the interim, the CBA has launched an online credit card payment option for license renewal and is in the development phase of an online application for CPA licensure.
6.2	Evaluate and update internal procedures, as necessary, for migration to an on-line platform, which will ensure continuity of business processes and achieve a successful implementation.	IN PROCESS BreEZe Release 3 boards are now working on a Business Modernization Project targeted for implementation in FY 2021-22. Internal procedures have been updated for the online license renewal payment option.
6.3	Seek authorization to purchase mobile devices for members to view CBA meeting materials, which will reduce paper consumption and lessen the environmental impact.	COMPLETED Tablets were purchased and have been used regularly by CBA members and staff. The transition to paperless meetings has reduced paper consumption for various meeting materials.
6.4	Prepare for transition to document imaging.	POSTPONED This will be a multi-year project, tentatively scheduled to start in late 2019, pending completion of the Business Modernization Project.
6.5	Review and redesign the license renewal application once a date for transition to a new technology solution has been established.	IN PROCESS BreEZe Release 3 boards are now working on a Business Modernization Project targeted for implementation in FY 2021-22. As an interim step, the CBA developed an online renewal form for use with the online payment portal for license renewal.

² BreEZe is the DCA's new licensing and enforcement software to replace ATS and CAS, the existing legacy licensing and enforcement tracking systems.

Goal 7: Organizational Effectiveness*Maintain an efficient and effective team of leaders and professionals by promoting staff development and retention.*

#	Objective	Status
7.1	Continue to emphasize training and career growth resources to increase staff knowledge, skills, and upward mobility opportunities.	COMPLETED In June 2018, staff attended in-house Customer Service Training, and in September 2018, staff attended the Completed Staff Work and Effective Business Writing courses offered through DCA SOLID. Information on training is also accessible on the CBA Intranet in the Grow Your Career site.
7.2	Review, refresh, and post available procedure manuals to the intranet to increase operational efficiencies and access.	COMPLETED Procedure manuals have been revised and are available in electronic format, either through the Intranet or via shared computer drives. The manuals continue to be updated as unit structures and duties are changed.
7.3	Enhance onboarding procedures for new staff to assist in understanding the CBA, program and position responsibilities, and identify resources available to ensure their success.	COMPLETED Enhanced onboarding procedures were launched in 2016.



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CBA Item I.F
January 17, 2019

Discussion on the National Association of State Board's of Accountancy's Exposure Draft Regarding Model Rules for Continuous Testing

Presented by: Deanne Pearce, Assistant Executive Officer

Purpose of the Item

The purpose of this agenda item is to provide the California Board of Accountancy (CBA) with the National Association of State Boards of Accountancy (NASBA) exposure draft regarding proposed changes to the Uniform Accountancy Act Model Rules, Rule 5-7 (*Exposure Draft*) (**Attachment 1**), and to discuss the comment letter (**Attachment 2**) drafted in response to the *Exposure Draft*.

Consumer Protection Objectives

The *Exposure Draft* proposes changes that will provide greater flexibility to applicants taking the Uniform Certified Public Accountant Examination (CPA Exam), which is a requirement for certified public accountant (CPA) licensure. Continuous testing allows applicants to schedule more efficiently which provides an opportunity to complete the examination process in less time, allowing additional competent CPAs to enter the field, thereby upholding the CBA's mission to protect consumers.

Action(s) Needed

The CBA will be asked to review and discuss the attached *Exposure Draft* and to approve the comment letter due by the conclusion of the comment period on February 11, 2019.

Background

The *Exposure Draft* was prepared by NASBA as part of its continuing effort to update and promote uniformity in governing the practice of accountancy in the various jurisdictions. Similar to CBA Regulations, the Uniform Accountancy Act Model Rules (*Rules*) are intended in a general sense to implement or to explain specific provisions set forth in the Uniform Accountancy Act¹ (UAA). Although many of the CBA Regulations mirror the *Rules*, the CBA maintains independence in the establishment of its requirements in California.

¹ The American Institute of Certified Public Accountants (AICPA) and NASBA Uniform Accountancy Act is a model licensing law developed to provide a uniform approach to regulation of the accounting profession.

Discussion on the National Association of State Board's of Accountancy's Exposure Draft Regarding Model Rules for Continuous Testing

Page 2 of 3

Rule 5-7 is specific to the four testing windows in place for administration of the CPA Exam, which is determined by AICPA. The existing testing windows are:

- Quarter 1: January 1 – March 10
- Quarter 2: April 1 – June 10
- Quarter 3: July 1 – September 10
- Quarter 4: October 1 – December 10

Presently, a candidate may sit for any of the four sections of the CPA Exam, in any order, but may sit for each section only one time per testing window.

As AICPA and NASBA announced their intent to transition the CPA Exam to a continuous testing format and eliminate the present testing windows, at its November 2018 meeting, the CBA was presented with and approved amendments to CBA Regulations section 7.1 (**Attachment 3**). This amendment provides flexibility for the CBA to continue and apply the current provision of taking a section one time during a testing window but would also allow for continuous testing once implemented by the AICPA.

Comments

On November 15, 2018, NASBA issued an exposure draft outlining the proposed changes to the *Rules*, specifically Rule 5-7. The proposed changes eliminate the limitation on retaking a failed section of the CPA Exam during the same testing window. Under continuous testing, testing windows no longer exist.

The proposed language in CBA Regulation section 7.1 accomplishes a continuous testing format, even though there are differences from the *Exposure Draft* language in Rule 5-7.

As the CBA supports continuous testing and has approved regulatory language to effectuate the change, a proposed comment letter can be submitted to NASBA reflecting the CBA's recent actions.

Fiscal/Economic Impact Considerations

There are no fiscal impact considerations.

Recommendation

Staff recommend approval of the attached comment letter, which provides a time frame for implementing the regulatory changes and reflects the CBA's support for a continuous testing format. If the CBA decides any changes are necessary to the comment letter, staff recommend authority be delegated to the CBA President to approve the final letter for submission by the end of the comment period.

Discussion on the National Association of State Board's of Accountancy's Exposure Draft Regarding Model Rules for Continuous Testing

Page 3 of 3

Attachments

1. Exposure Draft: Uniform Accountancy Act Model Rules, Rule 5-7 (red-lined version)
2. CBA Comment Letter to NASBA Regarding Exposure Draft of the Uniform Accountancy Act Model Rules Change
3. CBA Regulation Section 7.1 Regarding Credit Status for the Computerized Uniform CPA Examination

November 1, 2018

TO: State Boards of Accountancy and other interested parties

RE: Change to Uniform Accountancy Act Model Rules

At the October 26, 2018 meeting of the National Association of State Boards of Accountancy's Board of Directors, on the recommendation of the Uniform Accountancy Act Committee, the following was approved for exposure for comment for a three-month period concluding on February 11, 2019.

The exposed rule is to prepare for continuous testing, which requires the elimination of testing windows currently necessary in the administration of the Uniform CPA Examination. As such change will take some time to accomplish, and Boards will be adopting this rule at different times, the language is constructed to clarify that this change will not go into effect until the state board and national examination systems are ready to support continuous testing.

Please consider the amended rule below and send your comments to:

Ed Barnicott – CBT Administration Committee Staff Liaison (ebarnicott@nasba.org)

and Louise Haberman – UAA Committee Staff Liaison (lhberman@nasba.org)

Current Version of Rule 5-7(a)(2)

~~-(a) (2) Candidates cannot retake a failed Test Section(s) in the same testing window. A testing window is equal to a calendar quarter (January-March, April-June, July-September, October-December). Candidates will be able to test no less than two (2) months out of each testing window.~~

Proposed Change to Rule 5-7(a)(2)

Rule 5-7 – Retake and granting of credit requirements.

(a) A Candidate may take the required Test Sections individually and in any order. Credit for any Test Section(s) passed shall be valid for a period of eighteen (18) months and be calculated from the actual date the Candidate took that Test Section, without having to attain a minimum score on any failed Test Section(s) and without regard to whether the Candidate has taken other Test Sections.

- (1) Candidates must pass all Test Sections of the examination within a rolling eighteen (18) month period, which begins on the date that the first Test Section(s) passed is taken.
- (2)
 - (A) Subject to subsection 7(a)(2)(B), Candidates cannot retake a failed Test Section(s) in the same testing window. A testing window is equal to a calendar quarter (January-March, April-June, July-September, October-December). Candidates will be able to test no less than two (2) months out of each testing window.

(B) If the Board determines that the examination system changes necessary to eliminate the test window limitations have been implemented, subsection (A) will no longer be effective, and a Candidate can retake a Test Section once their grade for any previous attempt of that same Test Section has been released.



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January 18, 2019

Attachment 2

Louise Haberman
Vice President – Information and Research
National Association of State Boards of Accountancy
12 E. 49th Street, 12th Floor
New York, NY 10017

RE: Exposure Draft of the Uniform Accountancy Act Model Rules Change

Dear Ms. Haberman:

On behalf of the California Board of Accountancy (CBA), I am pleased to submit our comments to the National Association of State Boards of Accountancy (NASBA) regarding the exposure draft of the Uniform Accountancy Act Model Rule 5-7 (Rule 5-7).

The proposed change to Rule 5-7, which will implement continuous testing for the Uniform CPA Examination (CPA Exam), will provide greater flexibility to applicants who are working to obtain certified public accountant (CPA) licensure.

The CBA supports the proposed change to Rule 5-7 and at its November 2018 meeting approved proposed regulatory language to implement the continuous testing format. Although the rulemaking process takes between 18 to 24 months, the CBA will be well-positioned to implement this change once launched by the American Institute of CPAs.

The CBA appreciates the opportunity to comment on this exposure draft and for your continued hard work in assisting regulatory boards meet their mission of consumer protection.

Sincerely,

George Famalett, CPA
President

c: Members, California Board of Accountancy
 Patti Bowers, Executive Officer
 Ed Barnicott, CBT Administration Committee Staff Liason



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Attachment 3

CBA Regulation Section 7.1 **Credit Status for the Computerized Uniform CPA Examination** *Approved by the CBA at the November 2018 meeting*

(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.~~

(d) A candidate may sit for any unpassed section of the examination during the testing period. The testing period is determined by the American Institute of Certified Public Accountants.

(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.



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CBA Item I.G.
 January 17, 2019

Discussion and Possible Adoption of the Proposed 2020 California Board of Accountancy Meeting Dates and Locations

Presented by: Rebecca Reed, Board Relations Analyst

Purpose of the Item

The purpose of this agenda item is to provide the California Board of Accountancy (CBA) with proposed meeting dates for 2020.

Consumer Protection Objectives

The CBA meets regularly during the year to conduct business related to the practice of public accountancy and its consumer protection mandate.

Action(s) Needed

The CBA may choose to adopt or modify the 2020 CBA meeting dates and locations (**Attachment 1**).

Background

Business and Professions Code section 101.7 (**Attachment 2**) requires that the CBA meet at least three times each calendar year with at least one meeting in Northern California and one meeting in Southern California.

Comments

The proposed 2020 CBA meeting dates and locations are identified below and have been selected to avoid major and religious holidays. The Northern California meetings will be held at the CBA office.

- January 16-17, 2020 Northern California
- March 26-27, 2020 Southern California
- May 14-15, 2020 Northern California
- July 23-24, 2020 Southern California
- September 24-25, 2020 Northern California
- November 19-20, 2020 Southern California

Discussion and Possible Adoption of the Proposed 2020 California Board of Accountancy Meeting Dates and Locations

Page 2 of 2

Fiscal/Economic Impact Considerations

There are no fiscal/economic impact considerations.

Recommendation

Staff recommend that the CBA approve the proposed 2020 CBA meeting dates and locations.

Attachments

1. California Board of Accountancy 2020 Meeting Dates and Locations Calendar
2. Business and Professions Code Section 101.7

**CALIFORNIA BOARD OF ACCOUNTANCY (CBA)
2020 MEETING DATES/LOCATIONS CALENDAR
(CBA MEMBER COPY)**

Attachment 1

JANUARY 2020

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	

FEBRUARY 2020

S	M	T	W	Th	F	S
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23	24	25	26	27	28	29

MARCH 2020

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

APRIL 2020

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26	27	28	29	30		

MAY 2020

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17	18	19	20	21	22	23
24	25	26	27	28	29	30
31						

JUNE 2020

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28	29	30				

JULY 2020

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12	13	14	15	16	17	18
19	20	21	22	23 SC	24 SC	25
26	27	28	29	30	31	

AUGUST 2020

S	M	T	W	Th	F	S
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23	24	25	26	27	28	29
30	31					

SEPTEMBER 2020

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

OCTOBER 2020

S	M	T	W	Th	F	S
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11	12	13	14	15	16	17
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NOVEMBER 2020

S	M	T	W	Th	F	S
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8	9	10	11	12	13	14
15	16	17	18	19 SC	20 SC	21
22	23	24	25	26	27	28
29	30					

DECEMBER 2020

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	31		

COMMITTEES

EAC - Enforcement Advisory Committee
 QC - Qualifications Committee
 PROC - Peer Review Oversight Committee
 MSG - Mobility Stakeholder Group

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
2450 Venture Oaks Way, Suite 300
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Attachment 2

Business and Professions Code Section 101.7

101.7

(a) Notwithstanding any other provision of law, boards shall meet at least three times each calendar year. Boards shall meet at least once each calendar year in northern California and once each calendar year in southern California in order to facilitate participation by the public and its licensees.

(b) The director at his or her discretion may exempt any board from the requirement in subdivision (a) upon a showing of good cause that the board is not able to meet at least three times in a calendar year.

(c) The director may call for a special meeting of the board when a board is not fulfilling its duties.

(d) An agency within the department that is required to provide a written notice pursuant to subdivision (a) of Section 11125 of the Government Code, may provide that notice by regular mail, email, or by both regular mail and email. An agency shall give a person who requests a notice the option of receiving the notice by regular mail, email, or by both regular mail and email. The agency shall comply with the requester's chosen form or forms of notice.

(e) An agency that plans to Web cast a meeting shall include in the meeting notice required pursuant to subdivision (a) of Section 11125 of the Government Code a statement of the board's intent to Web cast the meeting. An agency may Web cast a meeting even if the agency fails to include that statement of intent in the notice.

(Amended by Stats. 2014, Ch. 395, Sec. 1. Effective January 1, 2015.)



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CBA Item I.H.
January 17, 2019

Presentation on Information Security Practices for the California Board of Accountancy

Presented by: David Hansen, Senior Systems Administrator

Purpose of the Item

The purpose of this agenda item is to provide the California Board of Accountancy (CBA) with information regarding current practices employed by the CBA to ensure information security.

Consumer Protection Objectives

The CBA is mandated to ensure consumer protection through the regulation of the practice of public accountancy. As part of this mandate, the CBA must review qualifications of applicants applying for CPA licensure and maintaining CPA licensure, and in doing so, must ensure that the information entrusted to the CBA is maintained in a secure environment.

Action(s) Needed

No specific action is required on this agenda item, although staff welcome any input the CBA may have.

Background

The CBA operates various information technology (IT) systems that serve as a backbone to its daily operations and play a critical part in the CBA's consumer protection mandate. The CBA employs numerous security measures and follows requisite policies and procedures established by the Department of Consumer Affairs (DCA) and the California Department of Technology (CTA) in the operation of its IT equipment, software and practices.

Comments

Information technology is a vital component of the CBA's daily functions and plays a critical part in assisting the CBA meet its consumer protection mandate. The following provides an overview of the strategies and techniques used to ensure the security of the CBA's electronic data and defend against cyber threats and information on the CBA's data recovery procedures.

Presentation on Information Security Practices for the California Board of Accountancy

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Cyber Threats

The array of cyber threats facing organizations have grown tremendously over the past several years with hackers, organized criminals, and others compromising website and internal security of all ranges of organizations from large multinational corporations, political parties, federal agencies, credit reporting bureaus, local government, police departments, and even rural hospitals. With these threats, maintaining the security of websites, databases and internal networks is increasingly challenging.

The CBA is supported in its IT security efforts by larger State organizations such as DCA and the California Department of Technology (CDT). Various State and DCA policies set requirements and best practices that guide choices when developing solutions or deploying new hardware and applications. Staff strive to ensure that security considerations are one of the primary concerns when developing and deploying IT solutions.

As is common today, the CBA's IT infrastructure is a complex mix of technologies and layered services that provides critical capabilities to CBA staff in their support of the CBA mission and the services that we provide to our stakeholders. Securing the CBA's IT infrastructure from today's cyber threats requires multiple strategies and techniques. The strategies employed to defend against cyber threats include various prevention techniques, threat exposure reduction, threat detection and finally testing and verification of our defenses.

Prevention

Threat prevention techniques that the CBA employs include physical and programmatic access controls, the CBA-wide requirement and usage of two-factor authentication (ex. Yubikeys), segmented firewall-protected multiple internal networks, filtering internet proxies and NAT firewalls, email scanning and filtering provided by Microsoft's O365 endpoint protection service, patch management, limited WiFi access, malware and virus protection, and website application filtering and packet filtering firewalls. Additionally, the entire CBA network is behind and protected by CDT's State network firewall.

Threat Exposure Reduction

Threat exposure reduction describes the strategy of reducing the "surface area" exposed to a given threat and/or the apparent value of the "spoils" of an attempted hack or cyber-attack. For example, the CBA website is split between the main website containing only "static" information hosted by DCA on their IT infrastructure and protected by their firewalls and security infrastructure and "dynamic" content and applications hosted on Microsoft's Azure cloud infrastructure, protected by Microsoft's firewalls and security infrastructure. This split design reduces the exposure of the CBA's IT infrastructure to web server attacks and threats.

Additionally, the CBA collects the minimum amount of applicant and licensee data as necessary to perform our consumer protection and regulatory functions. When

Presentation on Information Security Practices for the California Board of Accountancy

Page 3 of 4

sensitive data is collected, it is stored in encrypted formats and access is limited to staff that have a work-related need to access the sensitive information. For example, when a social security number is entered by an applicant into the CBA's online computer-based testing application system, it is immediately encrypted and is no longer viewable or accessible to the web server. Also, all CBA web content is securely transmitted to browsers via HTTPS using an industry standard commercial SSL/TLS certificate.

Threat Detection

Threat detection is the active search for signs of a successful hack or cyber-attack resulting from the failure of the prevention and exposure reduction strategies. Threat detection is critical, as the goal of most cyber-attacks, network incursions or successful hacking attempts, is to go undetected as long as possible in order to further compromise an organization and extract the maximum amount of valuable data and/or inflict the maximize the amount of damage to a target.

Threat detection is also the most complicated, expensive and labor intensive activity. Some of the techniques that the CBA utilizes to detect cyber threats include firewall and system log analysis, virus and malware scanning, "canary" files and the use of intrusion detection systems (IDS). The CDT also provides intrusion detection and alerts to State organizations behind the State firewall, such as the CBA. Additionally, the CBA is partnering with DCA to perform intrusion detection scans, and for software and hardware to improve our threat detection capabilities.

Testing and Verification

The final protective strategy and equally as important as the others, it is the testing and verification of the other strategies and techniques. Unless successfully tested and verified, all these defensive strategies and techniques are merely theoretical at best. For this, the CBA performs regular vulnerability scanning and partners with DCA for regular website vulnerability scans. The CBA will also be partnering with DCA for additional internal network vulnerability scanning in the near future.

The CDT is also starting a "phishing" vulnerability testing campaign aimed at educating and preparing State staff for hostile "phishing" campaigns targeting the State's IT infrastructure. In addition, DCA and all of its Boards and Bureaus are subject to annual security auditing and vulnerability testing by the California Military Department (CMD). CBA's CMD security audit and vulnerability testing is scheduled for May 2019.

Data Recovery

Ideally, all the defensive strategies and techniques that have been previously detailed will be successful in defending the CBA against all cyber threats. However, in the event of a breach, the last strategy that the CBA would employ is a "disaster recovery" strategy. The CBA utilizes data replication, daily data "snapshots," data and system "images" and secure offsite storage to ensure that data or systems compromised by a

Presentation on Information Security Practices for the California Board of Accountancy

Page 4 of 4

successful cyber-attack can be restored or reconstructed as part of the recovery plan for such events.

Recommendation

Staff do not have a recommendation on this agenda item.

Attachment

None



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CBA Item II.C.1.
January 17, 2019

Recommendations for Appointment(s)/Reappointments to the Peer Review Oversight Committee

Presented by: Mark J. Silverman, Esq., Vice-President

Purpose of the Item

The purpose of this agenda item is to recommend that Iryna Oreshkova, CPA (**Attachment**) be appointed as a member to the California Board of Accountancy (CBA) Peer Review Oversight Committee (PROC).

Consumer Protection Objectives

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.

Recommendations for Appointment(s)/Reappointments to the Peer Review Oversight Committee

Page 2 of 2

Prior to making a decision to recommend Ms. Oreshkova for appointment to the PROC, I performed all the steps previously mentioned. Ms. Oreshkova has the skills and knowledge to serve on the PROC, which will allow the PROC to 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 Jeffrey De Lyser, Chairperson of the PROC, I recommend that Iryna Oreshkova, CPA be appointed for two years to the PROC, effective January 17, 2019 until January 31, 2021.

Attachment

Curriculum Vitae of Iryna Oreshkova, CPA

**California Board of Accountancy
Report of the Secretary/Treasurer
Nancy J. Corrigan, CPA**

Discussion of the Governor's Budget

The purpose of this agenda item is to provide the California Board of Accountancy (CBA) with the proposed Governor's Budget for Fiscal Year (FY) 2019-20, which is due to be released on January 10, 2019.

The CBA's proposed budget for FY 2019-20 is \$16,098,000 and reflects an increase from the FY 2018-19 budget, which is now set at \$14,503,000. Additional details on the budget increase will be provided at the July 2019 CBA meeting.

The Governor's proposed budget must be approved by the Legislature. The Governor will subsequently review this legislatively-approved Budget during the May Revision. At that time, he may veto various budgetary line-items in order to arrive at a final figure. The Legislature must pass the budget bill by June 15, 2019, at which time the Governor has 12 days to either sign the budget bill or return it to the Legislature. The budget then becomes effective on July 1, 2019.

The current FY 2018-19 budget was previously reported as \$13,981,000; however, employee compensation augmentations increased the CBA spending authority to \$14,503,000.

Budget Process Overview



By DCA Budget Office

Overview

- Introduction – Budget Office
 - Main Role
- Annual Budget Process
 - Flow Chart
- Budget Building – Incremental Budgeting
 - How do we budget?
- Fiscal Responsibilities
 - What is your Budget?
 - What is your Fund?
- Conclusion/Questions

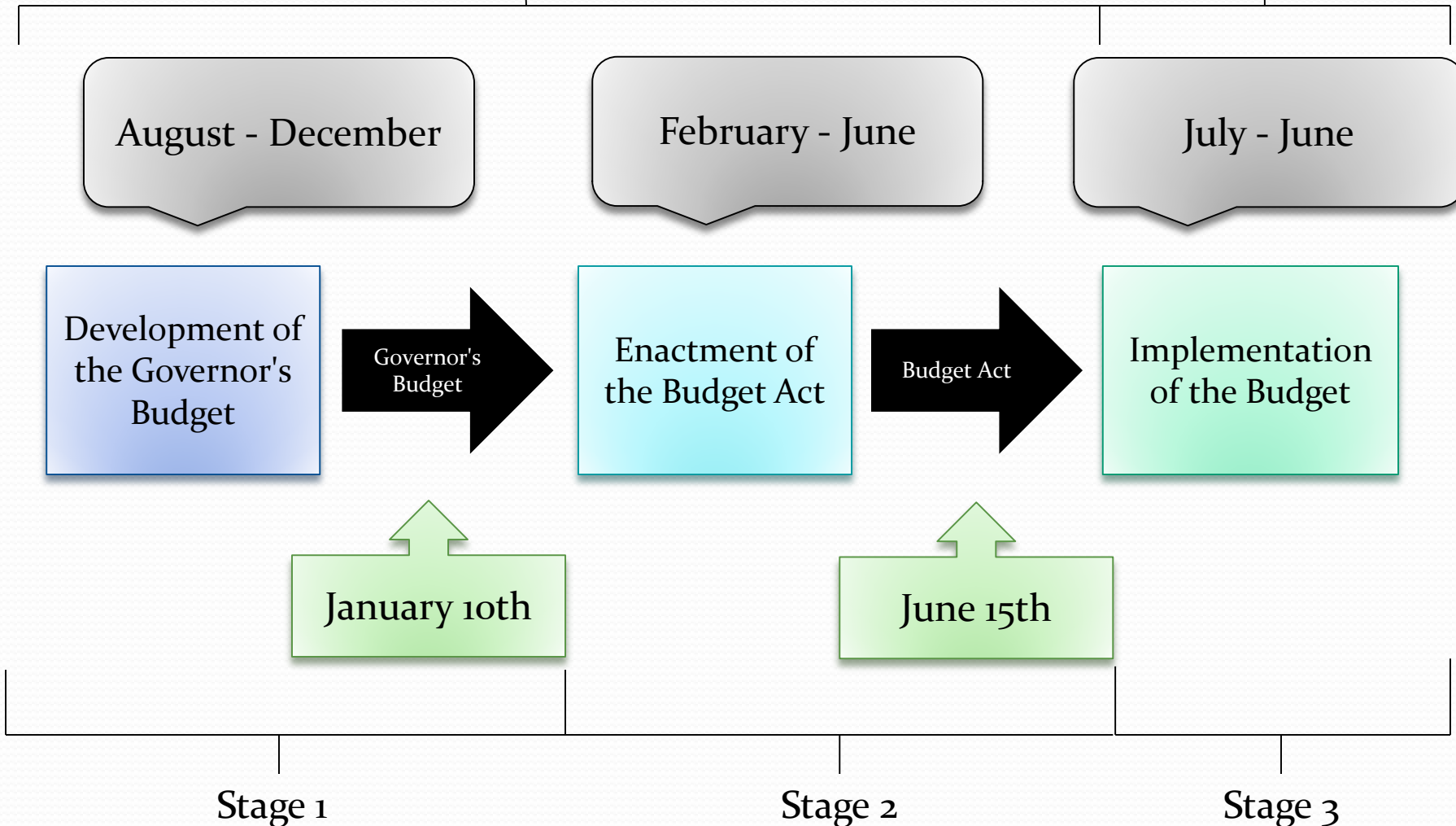
Introduction – Budget Office

- The main role of the Budget Office is to facilitate the Annual Budget Process for the Department of Consumer Affairs and its various programs.
 - Stage 1 - Building of the Governor's Budget
 - Stage 2 - Enactment of the Budget Act
 - Stage 3 - Implementation of the Budget Act

Annual Budget Process – Flow Chart

Current Fiscal Year (July 1 – June 30th)

Budget Fiscal Year



Budget Building - Incremental Budgeting

- The State Constitution requires that the Governor submit a budget to the Legislature by January 10.
- How do we build a budget?
 - **Incremental Budgeting** - This approach uses the current departmental level of funding as a base amount to be adjusted by various means:
 - Statewide Budget Letters – budget policies and instructions issued by the Department of Finance (DOF). For example - changes in retirement rates and statewide salary increases
 - Budget Change Proposals (BCPs) – the traditional course to initiate a change to your budget
 - Legislative Changes – the Legislature has the power to make changes to the Governor's Budget

Fiscal Responsibilities

- Departments have the primary responsibility to operate within budgeted levels and to comply with any restrictions or limitations enacted by the Legislature.
- Budget Office Role:
 - Budget Tracking
 - Financial Year-End Projection Document
 - Fund Monitoring
 - Fund Condition Statements

Fiscal Responsibilities – Budget Tracking

- What is your budget?
 - Your budget is the amount your board has been appropriated to spend during a given fiscal year.
- Main Components of a Budget
 - Personnel Services
 - Operating Expenses
 - Reimbursements

Fiscal Responsibilities – Budget Tracking

- Financial Year-End Projection Document
 - Budget Stone (Final Budget)
 - Budget Line Items
 - Current Year and Prior Year Expenditures
 - Projections to Year End - \$13,740 million, or 97% of budget (as of FM 04)
 - Straight Line Projections
 - Prior Year Expenditure Trends
 - Estimates from Board
 - Unencumbered Balance - \$466,000, or 3.3% savings (as of FM 04)

Fiscal Responsibilities - Fund Monitoring

- How does your fund relate to your budget?
 - Your budget is appropriated from your fund, just like a check takes money from a checking account.
- Main funding components
 - Beginning Balance/Prior Year Adjustments
 - Revenues and/or Transfers
 - Expenditures
 - Fund Balance
 - Months in Reserve

Fiscal Responsibilities – Fund Monitoring

- What are fund reserves/balance?
 - A fund reserve is the surplus in a special fund to support what is necessary for the Board's expenditures.
 - Generally, a special fund should have approximately 3 to 6 months' reserve at any given point in time but no more than 24 months' reserve.

Conclusion – Questions



0704 - California Board of Accountancy
Analysis of Fund Condition

Prepared 12/31/2018

(Dollars in Thousands)

Governor's Budget FY 2019-20

	PY 2017-18	CY 2018-19	Governor's Budget BY 2019-20
BEGINNING BALANCE			
Prior Year Adjustment	\$ 31,789	\$ 27,486	\$ 22,224
Adjusted Beginning Balance	\$ -	\$ -	\$ -
	\$ 31,789	\$ 27,486	\$ 22,224
REVENUES AND TRANSFERS			
Revenues:			
4129200 Other regulatory fees	\$ 215	\$ 187	\$ 192
4129400 Other regulatory licenses and permits	\$ 4,445	\$ 4,259	\$ 4,388
4127400 Renewal fees	\$ 5,447	\$ 5,301	\$ 5,460
4121200 Delinquent fees	\$ 255	\$ 208	\$ 219
4143500 Miscellaneous services to the public	\$ 1	\$ -	\$ -
4163000 Income from surplus money investments	\$ 84	\$ 67	\$ 53
4171400 Escheat of unclaimed checks and warrants	\$ 4	\$ -	\$ -
4172500 Miscellaneous revenues	\$ 27	\$ -	\$ -
Totals, Revenues	\$ 10,478	\$ 10,022	\$ 10,312
Transfers from Other Funds			
Totals, Revenues and Transfers	\$ 10,478	\$ 10,022	\$ 10,312
Totals, Resources	\$ 42,267	\$ 37,508	\$ 32,536
EXPENDITURES			
Disbursements:			
1111 Department of Consumer Affairs Regulatory Boards, Bureaus, Divisions (State Operations)	\$ 13,793	\$ 14,207	\$ 15,802
8880 Financial Information System for California (State Operations)	\$ 19	\$ 1	\$ -4
9892 Supplemental Pension Payments (State Operations)	\$ -	\$ 179	\$ 390
9900 Statewide General Administrative Expenditures (Pro Rata) (State Operations)	\$ 969	\$ 897	\$ 752
Total Disbursements	\$ 14,781	\$ 15,284	\$ 16,940
FUND BALANCE			
Reserve for economic uncertainties	\$ 27,486	\$ 22,224	\$ 15,596
Months in Reserve	21.6	15.7	10.8



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MEMORANDUM

DATE	January 10, 2019
TO	CBA Members
FROM	Christy Abate Administration Services Manager
SUBJECT	Revised CBA Item III.B. Overview of the Budget Process

On January 10, 2019 the Fiscal Month 4 (preliminary) projection report was finalized and is included as a handout to supplement CBA Item III.B. Overview of the Budget Process.

Attachment
FY 2018-19 Expenditure Projection Fiscal Month 4 (preliminary)



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CBA Item IV.B.
January 17, 2019

Review and Approval of Proposed Changes to the California Board of Accountancy Member Guidelines and Procedures Manual

Presented by: Deanne Pearce, Assistant Executive Officer

Purpose of the Item

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

Consumer Protection Objectives

The purpose of this agenda item is to have clear guidelines and procedures that assists the CBA in its primary role of consumer protection.

Action(s) Needed

The CBA is asked to approve the January 2019 version of the G&P Manual.

Background

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

Comments

The edits to the G&P Manual are identified by underline and strikethrough. The following highlights the edits made to the G&P Manual:

- Spelled out most acronyms to provide clarity (*throughout the document*)
- Updated the overview of the CBA to make it consistent with other publications, including the Sunset Review Report and 2017-2018 CBA Annual Report (*page 5*)
- Revised the summary regarding the Practice Privilege Program (*page 6*)

Review and Approval of Proposed Changes to the California Board of Accountancy Member Guidelines and Procedures Manual

Page 2 of 2

- Removed the Strategic Planning Committee as a CBA-established committee. The development and monitoring of the Strategic Plan is conducted by the CBA *(throughout the document)*
- Updated the Enforcement Program information to ensure consistency with other CBA-prepared documents containing an overview of the Enforcement process *(pages 17-19)*
- Added references to statutory and regulatory provisions, where appropriate *(throughout the document)*
- Updated the Acronym List *(pages 43-44)*

Other minor non-substantive changes were made to improve overall clarity.

Fiscal/Economic Impact Considerations

There are no fiscal/economic impact considerations.

Recommendation

Staff recommend that the CBA adopt the January 2019 version of the CBA G&P Manual and welcome any suggestions or edits.

Attachment

CBA Member Guidelines and Procedures Manual

California Board of Accountancy

CBA Member

Guidelines and Procedures Manual

CALIFORNIA BOARD OF
ACCOUNTANCY

Updated
January ~~2018~~ 2019



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

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

Revised and Restated
January, 2010

Amendments to the Guidelines and Procedures Manual

July 2012
January 2013
January 2014
January 2015
June 2015
January 2016
December 2016
February 2017
August 2017
January 2018
January 2019

The information provided in this document is for the purpose of providing a general overview of the California Board of Accountancy guidelines and procedures. It is not intended to cover all topics or issues. The document does not supersede any statutes, regulations, or case law; and if there is a conflict, the statute, regulation, or case law is controlling. Further, this does not override legal advice by Department of Consumer Affairs or Attorney General's Office.

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SECTION I.

THE CALIFORNIA BOARD OF ACCOUNTANCY

For over 100 years, the California Legislature has entrusted the California Board of Accountancy (CBA) with protecting the public related to the practice of public accountancy in California. The CBA's mission evokes this charge: "To protect consumers by ensuring only qualified licensees practice public accountancy in accordance with applicable professional standards."

The breadth of the CBA's influence in the regulatory environment stretches beyond California's borders. The CBA regulates over 105,000 licensees, including individuals (certified public accountants [CPA] and public accountants [PA]) and accounting firms (partnerships, corporations, and out-of-state registered firms). Many of the accounting firms that the CBA regulates have national footprints and some with footprints worldwide. CPAs work in a wide range of areas including, accounting firms, private industry, government, and academia, and provide services to clients of all sizes and needs.

The CBA recognizes the scope of its regulatory influence. With stakeholders ranging from consumers needing accounting services; lenders, shareholders, and investors that rely on services rendered by CPAs; and businesses – large and small – that use CPAs to establish internal accounting controls (to name a few), the protection of the public shapes the policies, regulations, and enforcement decisions reached by the CBA.

Created in 1901, the California Board of Accountancy (CBA) licenses and regulates over 100,000 licensees including Certified Public Accountants and Accountancy firms, the largest group of accounting professionals in the nation.

By authority of the California Accountancy Act, the CBA:

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

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

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

~~Through its Practice Privilege program (commonly referred to as mobility), qualified out-of-state CPAs may practice public accountancy in California without providing notice or paying a fee. All CPAs practicing in California under the mobility program are subject to the disciplinary authority of the CBA. Further, CPAs must report certain disqualifying events prior to exercising a practice privilege or cease practicing in this state until authorized by the CBA.~~

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

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

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

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

A. MISSION AND VISION OF THE CBA.

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

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

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

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

The Governor appoints four of the public members and all of the licensee members with individuals representing a cross section of the accounting profession. The Senate Rules Committee and the Speaker of the Assembly each appoints two public members.

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

Each public member of the CBA must not:

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

Each licensee member of the CBA must:

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

All members of the CBA must:

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

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

1. Responsibilities.

The CBA members are responsible for carrying out the mission of the CBA as delineated in Section I.A. of this manual. ~~Business and Professions Code section 5000.1 states, As noted in the CBA Strategic Plan (Appendix 1),~~ protection of the public shall be the highest priority for the CBA in exercising its licensing, regulatory, and disciplinary functions. Whenever the protection of the public is inconsistent with other interests sought to be promoted, the protection of the public shall be paramount.” In addition, CBA members are to adhere to all statutory and regulatory requirements as well as all policies and procedures contained in this Guidelines and Procedures Manual.

2. Duties.

All members are to attend CBA meetings and consider volunteering to participate as CBA Liaison to at least one ~~legislatively established advisory committee non-CBA member Committee~~ and participate as a member of at least one of the following committees comprised of only CBA members:

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

3. Mentoring.

The purpose of ~~California Board of Accountancy (CBA)~~ Mentor Guidelines is to assist new members in becoming familiar with the CBA structure, meetings, and present priorities.

When a new member is appointed to the CBA, a mentor shall be assigned by the CBA President and, when necessary, in consultation with the CBA Executive Officer. The mentor (which can be a former or current CBA member) will assist the new member in getting acclimated to his/her role on the CBA. This will include open discussion on any matter presently or previously discussed by the CBA (with the exception of closed session matters). This provides an opportunity for the new member to receive insight regarding the activities, history, and priorities of the CBA.

If the mentor is a current CBA member, s/he may wish to sit adjacent to the new member during his/her first CBA meeting and assist in providing guidance on the meeting materials and answer any procedural questions that may arise.

4. Executive Officer Evaluation.

Each November, ~~CBA~~ members will complete an evaluation of the Executive Officer ~~(EO)~~. The CBA President will use the surveys to complete a written summary of the evaluations. The CBA has the option of meeting in closed session to discuss the Executive Officer's performance appraisal. The original evaluation is signed by the CBA President and ~~EO~~ Executive Officer and sent to the DCA Human Resources Office for placement in the Executive Officer~~EO~~'s Official Personnel File.

In accordance with Government Code section 11126, the CBA may hold a closed session to consider complaints or charges brought against the Executive Officer~~EO~~ or to consider the dismissal of the Executive Officer~~EO~~, unless the Executive Officer~~EO~~ requests a public hearing. The CBA may deliberate on any decision to be reached on any of the aforementioned issues in a closed session. Any action to appoint, employ, or dismiss the employee taken must be publicly reported at a subsequent meeting. The CBA President should contact DCA Legal Counsel regarding proper compliance with Open Meeting Act requirements prior to considering any action.

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

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

No person shall serve more than two, four-year terms consecutively.

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

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

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

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

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

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

1. Election of Officers.

The process for the election of officers is as follows:

- At the September CBA meeting, the President shall inform members that the election of officers will be held at the November CBA meeting.
- Interested candidates are requested to prepare a one-page written summary outlining their qualifications for the position for which they are applying, which will serve as a self-nomination. Candidates are limited to being nominated for one officer position. The summary is to be sent to the Executive Analyst by a date determined by the Executive Officer and CBA President.
- The nominations shall be distributed as part of the agenda items for the November CBA meeting.
- At the November CBA meeting, the President shall ask if there are any additional nominations for the officer positions. Any member who is nominated may be given up to five minutes of floor time to describe why they are qualified for the position.
- After all nominations have been confirmed, the President will close nominations.

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

2. Vacancy.

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

3. Duties.

a. President.

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

- Preside over CBA meetings
- Approve the agenda and time schedule
- Appoint CBA members as Liaison to the Enforcement Advisory Committee, Peer Review Oversight Committee, ~~(EAC)~~ and Qualifications Committee ~~(QC)~~
- Appoint CBA members to CBA committees and task forces
- Establish other CBA committees as needed
- Make decisions regarding CBA matters between meetings
- Coordinate the annual evaluation of the Executive Officer

- When necessary, make interim appointments to the EAC Enforcement Advisory Committee, Peer Review Oversight Committee, ~~(PROC)~~ and QC Qualifications Committee, subject to ratification at the next CBA Meeting
- Monitor CBA ~~m~~Member attendance at CBA Meetings, and report issues to ~~the Department of Consumer Affairs (DCA)~~
- Make interim appointments to the Vice-President and Secretary/Treasurer positions should they become vacant mid-term
- Assign travel expense claims to be reviewed internally by CBA staff for adherence to established travel guidelines and subsequently, delegate approval to DCA's Deputy Director, Board and Bureau Relations.
- Interface with the CBA staff regarding internal audit matters affecting the CBA. These matters include such issues as internal audit findings, requests for special reviews, and other related concerns or topics

b. Vice-President.

The Vice-President shall perform the following:

- Act in the absence of the President
- Review the EAC Enforcement Advisory Committee, PROC Peer Review Oversight Committee and QC Qualifications Committee members and recommend appointments and reappointments, including appointments and reappointments for leadership roles
- Perform any other duties as assigned by the CBA President
- Review and act upon time sensitive appeals to the CBA by CPA Licensure candidates

c. Secretary/Treasurer.

The Secretary/Treasurer shall perform the following:

- Act as Liaison to ~~the CBA~~ staff ~~of the CBA~~ for fiscal/budgetary functions and routinely report to the CBA regarding relevant matters. This includes reviewing the quarterly and year-end financial statements, in concert with the President. After review, the Secretary/Treasurer presents the financial statement to the CBA
- Perform other duties as requested by the CBA President

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

All meetings of the CBA and its committees, subcommittees and task forces are subject to the Bagley-Keene Open Meeting Act. This Act is summarized in a document developed by ~~the~~

DCA, and includes statutory requirements for conducting Teleconference, ~~and/or~~ Emergency Meetings, or both. **(Appendix 21)**

1. Frequency.

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

2. Locations.

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

3. Attendance.

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

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

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

4. Agenda.

The CBA President, with the assistance of the Executive Officer, shall prepare the agenda and tentative time schedule.

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

5. Notice Requirements.

The notice requirements defined by the Bagley-Keene Open Meeting Act are summarized in the guide provided by ~~the~~ DCA. **(Appendix 21)**

6. Closed Session.

~~There are multiple types of closed session meetings conducted by the CBA and are further identified on pages [page numbers will be inserted once formatting is complete]. Closed sessions, if conducted by an Administrative Law Judge (ALJ), may be attended by CBA members only, unless otherwise invited by the ALJ to remain. Those individuals the CBA President deems appropriate as dictated by a need for their expertise may attend all other closed sessions.~~

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

7. Minutes.

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

After adoption by the CBA, the minutes are signed by the CBA President and Secretary/Treasurer, bound by year, and retained in the CBA office as a public record of the CBA's activities. The minutes are also posted on the CBA website for at least three years in accordance with Business and Professions Code section 5017.1.

8. Voting.

A majority of the CBA, which is eight members, shall constitute a quorum for the transaction of any business.

a. Recording.

In accordance with ~~California~~ Government Code section 11123, after each motion, a roll call will be taken by the Executive Analyst. Member's names will be called and each member will state their vote for the motion as yes, no, or abstain. Each member's vote for the action, or the abstention or recusal of each member attending the meeting, will be recorded in the minutes. Those absent are recorded after every motion unless the member is shown as absent for the entire meeting.

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

Subsequent modification to these procedures may be needed, as deemed appropriate and in accordance with the provisions of the Bagley-Keene Open Meeting Act.

b. Abstentions.

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

Abstentions do not prevent a motion from carrying as a majority of the vote is determined by the votes actually cast. For example, if seven members vote in favor of a motion, six members vote against, and two abstain, the motion would carry.

c. Mail Votes.

Mail votes are not permitted except in disciplinary matters. The CBA has 100 days from the receipt by the CBA of a proposed decision by an ~~ALJ~~ Administrative Law

~~Judge to act (Government Code Section 11517 (c)-(2)-California Administrative Procedure Act)~~. A mail vote may be taken at the direction of the CBA President.

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

All CBA meetings are recorded, webcast live, and provide closed captioning.

10. Adjournment.

The CBA has delegated the adjournment of the meeting to the CBA President and the respective committee chairs. The CBA President and committee chairs will adjourn ~~their~~ respective meetings in accordance with the Bagley-Keene Open Meeting Act. If adjournment of the meeting is immediately after closed session, the meeting will be reconvened into open session prior to adjournment.

H. APPEALS TO THE CBA.

Applicants, who are aggrieved by any action taken by a committee or staff of the CBA as it relates to experience for CPA ~~Licensure~~licensure, can submit an appeal, pursuant to CBA Regulation section 49. Appeals should be submitted a minimum of 20 working days prior to a CBA meeting to be considered.

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

Formal denials of licensure (Statement of Issues) will be handled in accordance with the appeals processes set forth in the Administrative Procedure Act (Government Code sections 11500 and following).

I. PETITION FOR REINSTATEMENT OR REDUCTION OF PENALTY.

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

J. PRESENTATIONS.

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

K. COMMITTEES AND TASK FORCES.

Committees and task forces, other than those ~~created~~ established by statute, are established created by the CBA President on behalf of the CBA. A CBA and committee roster is included as

(Appendix 32).

L. APPOINTMENTS TO THE ENFORCEMENT ADVISORY COMMITTEE, PEER REVIEW OVERSIGHT COMMITTEE AND QUALIFICATIONS COMMITTEE.EAC, PROC, QC, AND MSG.

New appointments and reappointments are made as needed, through the process outlined in the Committee Member Resource Guide. The Committee Member Resource Guide is located on the CBA's website. Opportunities to participate on a CBA committee is noticed in the CBA's newsletter, **UPDATE**, and on the CBA website.

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

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

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

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

N. EXAMINATION, LICENSURE, AND LICENSE RENEWAL PROGRAMS

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

1. Uniform CPA Examination.

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

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

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

~~A handbook for examination applicants regarding requirements to sit for the CPA Exam and the CBA's policies and procedures for exam candidates requesting accommodations for disabilities and medical considerations is included in this manual as Appendix 4.~~

2. Initial Licensing.

After passage of the Uniform CPA Examination, and fulfillment of the requisite experience, an applicant may apply for licensure. Approximately ~~3,600~~4,000 applications are received each year and the CBA licenses approximately ~~3,400~~3,000 individuals and ~~200~~400 firms annually.

Applications are reviewed by staff, and if warranted, an employer may be asked to appear with work papers to substantiate the verification of experience (~~Form E~~) that was submitted on an applicant's behalf. This review is done by the QC Qualifications Committee. Individual applicants may also be required to appear before the Qualifications Committee to substantiate their experience if deemed necessary.

~~A handbook regarding licensure requirements is included in this manual as Appendix 5.~~

3. License Renewal and Continuing Competency.

Functions related to continuing education (~~CE~~) and the review of professional competence of licensees who practice public accountancy are included in the License Renewal and Continuing Competency Program. The primary function within the License Renewal and Continuing Competency Program is to ensure licensees have met California's renewal requirements.

At the time of license renewal, licensees are required to submit the license renewal application (documenting 80 hours of qualifying ~~CE~~continuing education), a peer review reporting form, and remit the license renewal fee.

Additionally, licensees not previously fingerprinted for initial licensure or for whom the Department of Justice does not have an electronic record of the licensee's fingerprints must submit fingerprints for a state and federal level clearance if they are renewing in an active status and not actively serving in the military.

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

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

~~A handbook for licensees is included in this manual as Appendix 6.~~

O. ENFORCEMENT PROGRAM.

The CBA receives and investigates approximately ~~2,700~~2,600 complaints each year. CBA members will ~~routinely~~ see three different types of enforcement action, including:

1. Default Decision

~~A default decision is prepared by a Deputy Attorney General for consideration by CBA members when a licensee does not timely file a Notice of Defense or fails to appear at the scheduled administrative hearing. If adopted by the CBA members, it results in the CBA taking action against the license. If the licensee fails to appear at the administrative hearing, the CBA members or Administrative Law Judge, before the proposed decision is issued, have discretion to grant an administrative hearing on reasonable notice to the parties.~~

~~Default decisions occur in about 20 percent of the matters brought before the CBA members. Documents CBA members will receive include:~~

- ~~• Accusation~~
- ~~• Default Decision and Order~~
- ~~• Default Decision Investigatory Evidence Packet (the package will vary but generally include the Accusation, Statement to Respondent (including Declaration of Service), License History, Cost of Investigation and Prosecution, and Investigative Report)~~
- ~~• Memorandum from the CBA Legal Counsel that summarizes the causes for discipline and recommended options~~

~~During closed session, CBA members must make their decision based on the record, which includes only the items specified above. CBA Legal Counsel will present the Default items, and is limited to providing CBA members with advice on procedural and legal issues. Staff and the Deputy Attorney General liaison are not present in closed session for the CBA's discussion on default decisions. This is to ensure compliance with requirements associated with ex parte communication.~~

~~If the CBA members adopt the default decision, the licensee may serve a written motion within seven days of the default decision being served on the licensee requesting that the CBA members vacate the decision. CBA members may vacate the default decision and grant a hearing on a showing of "good cause."~~

~~Within seven days of the default decision being served on the licensee, the licensee may serve a written motion requesting the CBA to vacate the decision. CBA members may vacate the default decision and grant a hearing on a showing of "good cause;" as defined in section 11520 of the Government Code.~~

~~A default decision is issued when a licensee does not timely file a Notice of Defense or fails to appear at the scheduled administrative hearing, and results in the CBA taking action against the license if adopted by the CBA. If the licensee fails to appear at the administrative hearing, the CBA or ALJ Administrative Law Judge, before the proposed~~

decision is issued, have discretion to grant an administrative hearing on reasonable notice to the parties.¹

Within seven days of the default decision being served on the licensee, the licensee may serve a written motion requesting the CBA to vacate the default decision. The CBA may vacate the default decision and grant a hearing on a showing of "good cause."

Default decisions occur in about 20 percent of the matters brought before the CBA. Documents CBA members will receive with the agenda packets include:

- Accusation
- Draft default decision
- Investigatory evidence packet
- Transmittal memorandum from the DCA Legal Counsel that summarizes the causes for discipline

During closed session, CBA members may only ask procedural questions and must make their decision based on the evidence available. CBA staff and liaison the Deputy Attorney General (DAG) liaison are not present for the CBA's discussion on default decisions.

2. Stipulated Settlement

A stipulated settlement is a negotiated agreement between the Enforcement Program, with the assistance of the Attorney General's Office, and the licensee where the parties agree on a resolution to the matter. The Enforcement Program uses the CBA's Disciplinary Guidelines, which have been adopted by the CBA, when drafting and negotiating stipulated settlements.

The CBA members vote whether to approve the proposed stipulated settlement as its decision and order in the matter. CBA members may adopt the proposed stipulated settlement as the CBA decision in the matter, make a counteroffer with alternate terms, or reject the proposed stipulated settlement and allow the matter to proceed to hearing. If the proposed stipulated settlement is not adopted by the CBA members, the matter is referred to the Enforcement Program to be scheduled for a hearing, unless another stipulated settlement is negotiated and presented to the CBA members for consideration.

Stipulated settlements occur in about 75 percent of the matters brought before the CBA members. Documents CBA members will receive include:

- Accusation
- Stipulated Settlement
- Letter from the Deputy Attorney General advocating the adoption of the settlement
- Memorandum from the Enforcement Chief that summarizes the allegations in the Accusation, outlines the terms agreed to by the parties, and approximate costs incurred by the CBA in the investigation and prosecution of the matter

During closed session CBA members are free to discuss cases involving stipulated settlements with the Enforcement Chief prior to deciding on the cases. While ex parte communication is prohibited by the Administrative Procedure Act while cases are

¹If the CBA and ALJ make conflicting orders, the CBA's order takes precedence.

pending, it is specifically permitted by one of the standard conditions included in the proposed stipulated settlement, which the licensee has already agreed to prior to it being considered by the CBA.

All decisions rendered by CBA members must be based on the administrative record, which are the documents, described above, presented to the CBA members. CBA members are prohibited from unilaterally increasing the discipline terms of a proposed stipulated settlement, but they can make a counter-offer, or provide guidance to the Executive Officer and Enforcement Chief regarding future settlement negotiations. Staff and the Deputy Attorney General liaison are present in closed session for the CBA's discussion of the stipulated settlement.

~~Stipulated settlements occur in about 75 percent of the matters brought before the CBA. Documents CBA members will receive with the agenda packets include:~~

- ~~• Accusation~~
- ~~• Stipulated settlement~~
- ~~• Letter from the DAG Deputy Attorney General advocating the adoption of the settlement~~
- ~~• Transmittal memorandum from the Enforcement Chief that summarizes the allegations in the accusation, outlines the terms agreed to by the parties, and approximate costs incurred by the CBA in the investigation and prosecution of the matter~~

~~During closed session, CBA members are free to discuss cases involving stipulated settlements with the Enforcement Chief prior to taking action on a case. All decisions rendered by the CBA must be based on the documents presented to the CBA Members. The CBA cannot unilaterally increase the discipline terms of a draft stipulated settlement, but it can provide guidance to the Executive Officer and Enforcement Chief regarding future settlement revisions. Staff and the Deputy Attorney General liaison DAG are present for the CBA's discussion of the stipulated settlement.~~

3. Proposed Decisions.

In cases where a licensee files a timely Notice of Defense and the case is not settled, it will proceed to a hearing before an Administrative Law Judge. A licensee's rights include, but are not limited to, the following: right to counsel at the licensee's own expense; notice and an opportunity to be heard, including the opportunity to present and rebut evidence; a hearing open to public observation; that the adjudicative function be separated from the investigative, prosecutorial, and advocacy functions within the CBA and a restriction on *ex parte* communication; and that the decision be in writing, based on the record, and include a statement of the factual and legal basis for the decision.²

The Administrative Law Judge will prepare a proposed decision, which will be provided to the CBA to make the final decision in the matter. The proposed decision will also include a recommended order that will (1) uphold the discipline advocated for by the agency, (2) modify the discipline or denial to include something less or more than the agency advocated, or (3) dismiss the case in its entirety.

² The factual and legal basis for the decision. The factual basis for the decision must be based exclusively on the evidence in the hearing record (testimony and all exhibits received into evidence).

CBA members must take one of the following five actions within 100 days of the date the CBA receives the proposed decision from the Office of Administrative Hearings:

1. Adopt the proposed decision in its entirety as its decision in the matter
2. Reduce the penalty proposed by the Administrative Law Judge and adopt the balance of the proposed decision
3. Make technical or other minor changes to the proposed decision and adopt the balance of it
4. Reject the proposed decision and refer the case back to the Administrative Law Judge for additional evidence
5. Reject (non-adopt) the proposed decision and decide the case on the record, including the transcript.

If CBA members do not take one of these five actions within the 100-day period, the proposed decision is deemed adopted by operation of law.

Rejection (non-adoption) of a proposed decision results in CBA member's later reviewing the administrative record, hearing transcript, written or oral arguments by the parties, and then CBA members reaching their own decision based upon this information.

CBA Legal Counsel prepares a draft of the Decision After Rejection of Proposed Decision based on closed session discussion with CBA members, which they then review and approve. The CBA's final decision must be issued within 100 days after the date of the rejection of the proposed decision, or within 100 days after the CBA receives the hearing transcript, whichever is later. If required by "special circumstances," the CBA may extend the 100 days an additional 30 days.

Proposed decisions occur in about five percent of the matters brought before the CBA members. Documents CBA members will receive include:

- Accusation
- Proposed decision
- Memorandum from CBA Legal Counsel that summarizes the findings and proposed discipline

In making the initial determination regarding whether to adopt or reject a proposed decision during closed session, CBA members may ask CBA Legal Counsel questions regarding the California Accountancy Act, CBA Regulations, CBA's Disciplinary Guidelines, and procedural questions regarding matters that involve the proposed decisions being discussed.

At this stage, CBA members do not have a copy of the hearing transcript or administrative record and must make the decision based on the Accusation and the proposed decision. Staff and the Deputy Attorney General liaison are not present in closed session for the CBA's discussion of proposed decisions. This is to ensure compliance with requirements associated with *ex parte* communication.

Factors CBA members may wish to consider when adopting an Administrative Law Judge's proposed decision include:

1. The summary of the evidence supports the findings of fact, and the findings support the conclusions of law.
2. The law and standards of practice are interpreted correctly.
3. The witness' credibility is crucial to the decision and the findings of fact include a determination based substantially on the witness' credibility. The determination identifies specific evidence of the observed demeanor, manner, or attitude of the witness that supports the credibility determination.
4. The penalty fits within the disciplinary guidelines or any deviation from those guidelines has been adequately explained.
5. The terms and conditions of probation, if granted, provide the necessary public protection.

Factors CBA members may wish to consider when non-adopting an Administrative Law Judge's proposed decision include:

1. The Administrative Law Judge made an error in applying the relevant standard of practice for the issues in controversy at the hearing.
2. The witness' credibility is crucial to the decision. The findings of fact include a determination based substantially on the witness' credibility, but the determination does not identify specific evidence that supports the credibility determination.
3. The Administrative Law Judge made an error in interpreting the licensing law and/or regulations.
4. The Administrative Law Judge made correct conclusions of law and properly applied the standards of practice, but the penalty is substantially less than is appropriate to protect the public.

~~A proposed decision is a decision drafted by an ALJ Administrative Law Judge after a contested accusation has proceeded through an administrative hearing. Adoption of the proposed decision by the CBA will result in imposition of whatever sanctions are reflected in the proposed decision. Non-adoption would generally result in the CBA's later review of the hearing transcript, requests for written arguments by the parties, and then the CBA reaching its own decision. The CBA could also adopt a proposed decision but reduce the penalty proposed by the Administrative Law Judge ALJ, or remand a case back to an Administrative Law Judge ALJ for further hearing and the taking of additional evidence.~~

~~Proposed decisions occur in about five percent of the matters brought before the CBA. Documents CBA members will receive with the agenda packets include:~~

- ~~• Accusation~~
- ~~• Proposed decision~~
- ~~• Transmittal memorandum from DCA Legal Counsel that summarizes the findings and proposed discipline~~

~~During closed session, CBA members may ask DCA Legal Counsel procedural questions regarding matters that involve proposed decisions, but must otherwise take their action based upon the record. The record consists of the proposed decision drafted by the Administrative Law Judge ALJ and the accusation. Staff and the the Deputy Attorney General liaison DAG are not present for the CBA's discussion of the proposed decisions.~~

~~Some factors to consider regarding an Administrative Law JudgeALJ's proposed decisions are:~~

~~a. Consider accepting an Administrative Law Judge'sALJ's proposed decision where:~~

~~i. The decision is based upon an assessment of the credibility of the witnesses.~~

~~ii. The law and ethical standards are interpreted correctly.~~

~~iii. The CBA is simply unhappy with the result but there are no legal problems with the decision.~~

~~iv. The costs of proceeding are so extreme in comparison with the severity of the offense and the probability of the success for the respondent is high.~~

~~v. The CBA does not approve the respondent's practices, but the prevailing standards at the time of the alleged violations did not prohibit such conduct.~~

~~b. Consider non-adopting an Administrative Law Judge'sALJ's proposed decision where:~~

~~i. The record reflects the Administrative Law JudgeALJ clearly abused his or her discretion.~~

~~ii. The Administrative Law JudgeALJ was clearly erroneous in his/ or her application of the relevant standard of practice for the issues in controversy at the administrative hearing.~~

~~iii. The Administrative Law JudgeALJ was clearly erroneous in his/her or her interpretation of the licensing law and/or implementing regulations.~~

~~iv. The Administrative Law JudgeALJ failed to interpret properly and/or to apply the appropriate ethical guidelines and standards to the specific facts of the case.~~

~~v. The Administrative Law JudgeALJ failed to understand the significance of the testimony of respondent with respect to the likelihood of future danger to the public.~~

~~vi.i. The Administrative Law JudgeALJ made the correct conclusions of law and properly applied ethical standards and rules of conduct, but the penalty is substantially less than is appropriate to protect the public.~~

P. CBA MEMBER CONFLICT OF INTEREST IN DISCIPLINARY MATTERS.

~~A Individual~~CBA members should not vote and should not be present for discussions on any disciplinary matter in which ~~they-s/he have~~has a conflict of interest. CBA's ~~Legal C~~ounsel should be contacted if you have a question of whether you have a conflict of interest in a particular case.

1. Investigative Consultants.

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

2. Conflict of Interest Disclosure Statement.

In disciplinary matters the conflict of interest disclosure statement used by the Enforcement Advisory Committee members should be used as a guide for determining whether a CBA member should participate or vote in CBA deliberations. *Conflict of Interest information can be found in Section IV, beginning on page 2637.*

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

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

3. *Ex parte* Communications.

Ex parte communications in disciplinary matters are ~~strictly~~ prohibited (Government Code section 11430.70), with limited exceptions. Should information come to a member's attention that is not part of the administrative record or if contact is made by any of the participants, the member should immediately contact CBA's Legal Counsel for advice. A case may not be discussed with any person, including CBA members, other than at the CBA meeting when the matter is scheduled for discussion. A limited exception to this policy is when a member is acting in a Liaison capacity on one or more specific cases. If acting as a Liaison, the member may not vote or be present during CBA deliberations. If there are two or more Liaison members, at least one should attend each meeting.

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SECTION II.

CBA COMMITTEES AND TASK FORCES

The ~~intent purpose~~ 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 ~~created by statute~~ statutory in nature, meaning their existence and responsibilities are set forth ~~use is written in~~ the Accountancy Act. All other committees are “standing committees 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~~ Mobility Stakeholder Group 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 to~~ the CBA for input and direction.

A. STATUTORY COMMITTEES (Ref. Business & Professions Code §§ 5020, 5023, 5024, 5076.1, 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 ~~Enforcement Advisory Committee~~ 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 Enforcement Advisory Committee~~EAC~~ is comprised of up to 13 licensees.

c. Meetings/Minutes.

The Enforcement Advisory Committee~~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.
- Evaluate the Peer Reviewer Population.

b. Membership.

The Peer Review Oversight Committee~~PROG~~ is comprised of 7-seven licensees.

c. Meetings/Minutes.

The Peer Review Oversight Committee~~PROG~~ 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 CBA Regulations Section section 69 (Section 69 review)-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 Qualifications Committee~~QC~~ is comprised of 13 licensees.

c. Meetings/Minutes.

The Qualifications Committee~~QC~~ meets approximately four times annually, generally for one day each meeting. An additional Section 69 review may be conducted by Qualifications Committee ~~QC~~ members approximately one month prior to each

committee meeting for those employers not in the geographic area of the upcoming Qualifications Committee meeting. Minutes are prepared from the meeting, and presented to the CBA for acceptance.

4. Mobility Stakeholder Group.

a. Purpose.

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

b. Membership.

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

c. Meetings/Minutes.

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

~~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 Committee on Professional Conduct~~CPC~~ may be comprised of up to seven CBA members.

c. Meetings/Minutes.

The Committee on Professional Conduct~~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 73)**.
- Defining the responsibilities of the CBA member liaison to the Enforcement Advisory Committee.

b. Membership.

The Enforcement Program Oversight Committee~~EPOC~~ may be comprised of up to seven CBA members.

c. Meetings/Minutes.

The ~~Enforcement Program Oversight Committee~~^{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 ~~Legislative Committee~~^{LC} may be comprised of up to seven CBA members.

c. Meetings/Minutes.

The ~~Legislative Committee~~^{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 32)**

6. National Committees.

The CBA encourages its members to participate in national committees, including committees of the American Institute of ~~Certified Public Accountants (AICPA)~~CPAs 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 8-4** includes a link to [National Association of State Boards of Accountancy](#)~~NASBA~~ and [American Institute of CPAs](#)~~AICPA~~ national committees and information on participation.

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SECTION III.

REPRESENTATIONS ON BEHALF OF THE CBA

A. USE OF CBA STATIONERY.

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

Members have the option of obtaining a CBA email account solely for the purpose of conducting CBA board-related business. Members obtaining a CBA email account are subject to the provisions identified in DCA Policy ISO ~~0504~~16-01, regarding Acceptable Use of Information Technology Systems. A copy of the policy will be provided upon request for a CBA email account. It should be noted that personal and business email accounts, if also used for CBA business, could be subject to subpoena or discovery in litigation.

B. TESTIMONY BEFORE THE LEGISLATURE.

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

C. PUBLIC AND MEDIA RELATIONS.

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

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

The CBA's website also has a License Lookup feature. Consumers and licensees can check the status of California licensed individuals, partnerships, corporations, and out-of-state

accounting firms registered in California. The License Lookup feature also provides ~~consumers~~ a link to search out-of-state licensed CPAs.

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

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

D. NEWS RELEASES.

The CBA issues three categories of news releases:

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

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

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

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

E. RESPONDING TO INQUIRIES.

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

referred to the Executive Officer.

F. SPEAKING ENGAGEMENTS.

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

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

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

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

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SECTION IV.

BOARD MEMBER REQUIRED TRAINING AND FORMS

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

~~In addition to the required training, the Department of Consumer Affairs also requires new All CBA members are required to attend a training and orientation program offered by the Department of Consumer Affairs within one year of assuming office (which also includes reappointments). Board Member Orientation session.~~

A. CONFLICT OF INTEREST - GENERAL GUIDELINES.

~~The Political Reform Act of 1974 (Proposition 9), as it governs conflicts of interest and, was is primarily intended designed to prevent persons from financially benefiting by virtue of their official position. There are two major aspects of the Political Reform Act included in the Conflict of Interest Code: one refers to disqualification, the other to financial disclosure. CBA members have responsibilities under each of these aspects which are separately discussed.~~
~~There are two major aspects of the Political Reform Act: one refers to disqualification, the other to financial disclosure. CBA members have responsibilities under each of these aspects which are separately discussed.~~

~~This act requires each state agencyies to adopt a Conflict of Interest Code that identifies all officials and employees within the agency who make governmental decisions based on the positions they hold. The identified individuals are required to annually report their financial interests on a Statement of Economic Interests form (Form 700) outlines the specific responsibilities of CBA members and employees in that agency. There are two major aspects of the Political Reform Act included in the Conflict of Interest Code: one refers to disqualification, the other to financial disclosure. CBA members have responsibilities under each of these aspects which are separately discussed.~~

~~The Fair Political Practices Commission has primary responsibility for administration of the Political Reform Act. Questions about obligations under the Political Reform Act can be directed to the Fair Political Practice Commission at: <http://www.fppc.ca.gov/advice.html> 1-866-ASK-FPPC (1-866-275-3772)~~

~~DCA also has an on-line resource center for board members where information regarding conflict of interest can found at: http://www.dcaboardmembers.ca.gov/member_info/conflict_interest.shtml~~

1. Disqualification.

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

Any CBA member who has a financial interest must disqualify himself/herself from making or attempting to use his/her official position to influence the decision. The question of whether a CBA member has a financial interest that would present a legal conflict of interest is a complex one and must be decided on a case-by-case review of the particular facts involved. For more information on ~~disqualif~~disqualification ying yourself due to a possible conflict of interest, please refer to the Fair Political Practice Committee's Conflicts of Interest Rules at: <http://www.fppc.ca.gov/learn/conflicts-of-interest-rules.html>
The Executive Officer may request assistance from DCA Legal in evaluating a possible conflict of interest.

2. Financial Disclosure.

The Conflict of Interest Code ~~adopted by DCA~~also requires all CBA members to file annual financial disclosure statements. This is accomplished by submitting a Form 700 – Statement of Economic Interests (**Appendix 95**). New CBA members are required to file a disclosure statement within 30 days after assuming office; or, if subject to Senate confirmation, 30 days after being appointed or nominated. Annual financial statements must be filed not later than April 1 of each year.

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

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

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

To determine what investments, interests in property or income must be reported by a CBA member, reference should be made to the DCA's Conflict of Interest Code. Questions concerning particular financial situations and related requirements should be directed to the DCA's Legal Office. More information is also available on DCA's the Fair Political Practice Commission's website, <http://www.fppc.ca.gov/Form700.html>
http://www.dca.ca.gov/publications/coi_regs.pdf

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

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

- Using the prestige or influence of a state office or employment for the officer's or employee's private gain or advantage, or the private gain or advantage of another.
- Using state time, facilities, equipment, or supplies for the officer's or employee's private gain or advantage, or the private gain or advantage of another.
- Using confidential information acquired by virtue of state employment for the officer's or employee's private gain or advantage, or the private gain or advantage of another.
- Receiving or accepting money, or any other consideration, from anyone other than the state for the performance of an act which the officer or employee would be required or expected to render in the regular course or hours of his or her state employment or as a part of his or her duties as a state officer or employee.
- Performance of an act in other than his or her capacity as a state officer or employee knowing that such an act may later be subject, directly or indirectly, to the control, inspection, review, audit, or enforcement by such officer or employee or the agency by which he or she is employed. [This, of course, would not preclude an "industry" member of a CBA or commission from performing the normal functions of his or her occupation.]
- Receiving or accepting, directly or indirectly, any gift, including money, any service, gratuity, favor, entertainment, hospitality, loan, or any other thing of value from anyone who is doing or is seeking to do business of any kind with the state or whose activities are regulated or controlled in any way by the state, under circumstances from which it reasonably could be inferred that the gift was intended to influence him or her in his or her official duties or was intended as a reward for any official action on his or her part.
- The aforementioned limitations do not attempt to specify every possible limitation on employee activity that might be determined and prescribed under the authority of Section 19990 of the Government Code. DCA's Incompatible Work Activities Policy ~~and Procedure~~ OHR ~~1014~~-01 is included in **Appendix 106**. This policy acknowledgement is required when a member is initially appointed.

B. ETHICS TRAINING REQUIREMENT

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

C. SEXUAL HARASSMENT PREVENTION TRAINING

In accordance with the DCA Sexual Harassment Prevention (~~SHP~~) Policy (EEO 12-01), **(Appendix 117)** and to ensure compliance with Assembly Bill ~~(AB)~~ 1825 (Reyes, Chapter 933, Statutes of 2004), all DCA employees are required to receive biennial Sexual Harassment Prevention training. The training is mandatory for Rank and File Employees, Temporary Employees (Retired Annuitants, Proctors, Seasonal Employees, and Student Assistants), Managers, Supervisors, Board, Committee Members, and Commission Members. The ~~SHP~~ Sexual Harassment Prevention training titled *Preventing Harassment and Other EEO Issues at Work: It's All About Respect* (~~AB~~ Assembly Bill 1825 Compliance) offers real life scenarios and interactive question and answer segments. DCA requires that all employees complete Sexual Harassment Prevention Training within six months of appointment and in every odd calendar year. Training is offered via webinars or in a classroom.

D. DEFENSIVE DRIVERS TRAINING REQUIREMENT

Pursuant to the State Administrative Manual, all State employees, which includes Board and Committee Members, who drive a vehicle on official state business must complete the Department of General Services approved Defensive Driver Training (~~DDT~~) within the first six months of their appointment and every four years thereafter. Defensive Driver Training information may be found at:

<http://www.dgs.ca.gov/orim/Programs/DDTOnlineTraining.aspx>

E. BOARD MEMBER ORIENTATION TRAINING

Newly appointed and reappointed members are required to attend a Board Member Orientation ~~session~~ Training within one year of assuming office, including each reappointment. The orientation covers applicable laws surrounding conflict of interest, ethics, sexual harassment prevention, and defensive driving ~~the information member previously mentioned regarding required training~~, in addition to covering other topics that will ensure a member's success, including an overview of DCA, the Bagley-Keene Open Meetings Act, the Discipline Process, and the Administrative Procedure Act. This training is in addition to a CBA--specific orientation provided by CBA staff.

DCA also maintains a website which serves as a resource center for board members. The website link is provided in **Appendix 128**.

SECTION V.

EXPENSE REIMBURSEMENT

A. PER DIEM AND TRAVEL.

1. Board Member Travel

CBA staff is always available to assist members with any CBA-related travel arrangements including air or train transportation, car rental, and any lodging. If a CBA member chooses to coordinate their own travel arrangements, they should use CalTravelStore's online portal www.concur.com to book their travel. Member's Concur accounts will be setup by CBA staff using the member's personal email address and a temporary password, which will be sent to you via email by the CBA Board Relations Analyst. Prior to travel, members will need to update the temporary password and add any applicable information, including rewards/frequent flyer traveler information and TSA Pre ✓ Known Traveler Number.

More information regarding CalTravelStore can be found at:
<http://www.caltravelstore.com>.

CBA members are also encouraged to utilize the most economic source of transportation available. For example, if there is a shuttle from the airport to the hotel available, it ~~is is not fiscally responsible~~ less economical to rent a car or take a taxi. To ensure full reimbursement of travel costs, requests for using a less economical mode of transportation should be submitted prior to travel to the Board Relations Analyst.

2. Lodging for Board/Committee Meeting.

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

3. Reimbursement for Travel and Per Diem expenses.

All new CBA members are provided with an electronic copy of the Per Diem and Travel Expense Worksheet when they are appointed. A paper copy is also available at all meetings. **(Appendix 139)**. Please complete the worksheet, and return it to the CBA office as soon as possible following the CBA meeting. Staff cannot process your Per Diem and travel expense claim without it. A few key notes regarding the completion of the form:

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

- Please make sure to complete the time section of the Travel Expense Claim. Breakfast, lunch, dinner, and incidental payments all correspond to the time the traveler left and arrived at travel headquarters.
- In order to complete your travel expense claim, you must submit the original copy of all receipts, with the exception of meals. This includes a copy of your airline itinerary and hotel receipt. Please make sure that the hotel receipt you submit has a zero balance. DCA will NOT pay any receipts that show a balance due.
- When requesting reimbursement for personal vehicle mileage, you must include where the trip originated from, where it ended, and the license plate number of the vehicle. For example, enter From: Home, 123 Green Street, Sacramento, CA 95815 To: CBA Office, 2450 Venture Oaks Way, Sacramento, CA 95833.
- CBA members shall have CBA President pre-approval for all travel and per diem reimbursement, except for regularly scheduled board and committee meetings to which a CBA member is assigned. CBA members will be reimbursed for per diem and travel expenses incurred while performing approved board business in accordance with State-mandated requirements and reimbursement criteria.

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

~~The Department of Consumer Affairs~~DCA has compiled a guide to assist in interpreting the various policies, which is what CBA staff use when processing travel expense claims. The DCA Travel Guide is provided as **Appendix 1410**.

SECTION VI.

COMMONLY USED ACRONYMS

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

ERISA	The Employee Retirement Income Security Act of 1974
FAF	Financial Accounting Foundation
FASB	Financial Accounting Standards Board
FNP	Fictitious Name Permit
FTB	Franchise Tax Board
GAAP	Generally Accepted Accounting Principles
GAAS	Generally Accepted Accounting Standards
GAGAS	Generally Accepted Government Accounting Standards
GAO	Government Accounting Office
GASB	Governmental Accounting Standards Board
IASB	International Accounting Standards Board
ICPA	Investigative Certified Public Accountant
iExam	International Delivery of the Uniform CPA Exam
IFRS	International Financial Reporting Standards
IH	Investigative Hearing
IRS	Internal Revenue Service
LC	Legislative Committee
MOU	Memorandum of Understanding
MSG	Mobility Stakeholder Group
NASBA	National Association of State Boards of Accountancy
NPRC	National Peer Review Committee (AICPA <u>American Institute of CPAs</u>)
OAHA	Office of Administrative Hearings
OAL	Office of Administrative Law
PA	Public Accountant
PAR	Partnership
PCAOB	Public Company Accounting Oversight Board
PRIMA	Peer Review Integrated Management Application
PROC	Peer Review Oversight Committee
QC	Qualifications Committee
RAB	Report Acceptance Body (CalCPA <u>California Society of CPAs</u>)
SAS	Statement on Auditing Standards
SB	Senate Bill
SCA	Society of California Accountants
SCO	State Controller's Office
SEC	Securities and Exchange Commission
SSAEs	Statements on Standards for Attestation Engagements
SSARS	Statement on Standards for Accounting and Review Services
TEC	Travel Expense Claim

SECTION VII.

RESOURCE LIST

- ~~APPENDIX 1~~ — ~~CBA Strategic Plan~~
~~<http://www.dca.ca.gov/cba/communications-and-outreach/stratpln2016-2018.pdf>~~
- APPENDIX ~~2~~1 DCA guide to the Bagley-Keene Open Meeting Act
http://www.dca.ca.gov/publications/bagleykeene_meetingact.pdf
- APPENDIX ~~3~~2 CBA and Committee Roster
<http://www.dca.ca.gov/cba/about-cba/commitroster.pdf>
- ~~APPENDIX 4~~ — ~~Uniform CPA Examination Handbook~~
~~<http://www.dca.ca.gov/cba/applicants/exambook.pdf>~~
- ~~APPENDIX 5~~ — ~~CPA Licensing Applicant Handbook~~
~~<http://www.dca.ca.gov/cba/applicants/applbook.pdf>~~
- ~~APPENDIX 6~~ — ~~CPA License Renewal Handbook~~
~~<http://www.dca.ca.gov/cba/licensees/handbook.pdf>~~
- APPENDIX ~~7~~3 Guidelines for Performing an Internal Audit of a Closed and Finalized Enforcement Case (Attachment)
- APPENDIX ~~8~~4 NASBA and AICPA National Committees:
<http://www.nasba.org/mc/committees/>
<https://volunteers.aicpa.org/>
- APPENDIX ~~9~~5 Form 700 – Statement of Economic Interests
<http://www.fppc.ca.gov/Form700.html>
- APPENDIX ~~10~~6 DCA’s Incompatible Work Activities Policy and Procedure OHR ~~10~~14-01 (Attachment)
- APPENDIX ~~11~~7 DCA’s Sexual Harassment Prevention Policy EEO 12-01 (Attachment)
- APPENDIX ~~12~~8 DCA’s Board Member Resource Center
<http://www.dcaboardmembers.ca.gov/index.shtml>
- APPENDIX ~~13~~9 — Per Diem and Travel Expense Worksheet with Travel Reimbursement Guidelines (Attachment)
- APPENDIX ~~14~~10 — DCA Travel Guide (Attachment)



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CBA Item IV.C.
January 17, 2019

Discussion Regarding Planning Efforts to Transition to Primarily Electronic Publication and Distribution of *UPDATE*

Presented by: Aaron Bone, Information and Planning Officer

Purpose of the Item

The purpose of this agenda item is to provide the California Board of Accountancy (CBA) an opportunity to discuss the planning efforts to transition to a primarily electronic publication and distribution of the *UPDATE*, CBA's tri-annual newsletter.

Consumer Protection Objectives

Modernizing the publication and distribution of the *UPDATE* will help keep the public, licensees, and other stakeholders informed of the CBA's activities.

Action(s) Needed

The CBA is asked to provide feedback on the planning efforts to transition to a primarily electronic publication and distribution of the *UPDATE*.

Background

At the July 2018 CBA meeting, the CBA approved a proposed statutory change to transition to a primarily electronic publication and distribution of the *UPDATE* publication. Additionally, the CBA directed staff to provide readers the ability to opt-in every six months should they wish to receive a hardcopy of the *UPDATE*.

Pursuant to Business and Professions Code (BPC) section 5008, the CBA is required to distribute a report (i.e. the *UPDATE*) of its activities to all licensees at least twice a year. To enable the transition to a primarily electronic publication and distribution, as a part of the CBA's Sunset Report to the legislature, the CBA requested an amendment to BPC 5008 to allow the CBA to meet this requirement by sending that report to licensees via email and/or posting it on the CBA's website.

Further, the CBA's Sunset Report included various amendments to the CBA's practice act that require applicants and licensees to provide a current email address at the time of each examination, licensure, and renewal application. Also, to obtain email addresses from current licensees who may be many months away from their next renewal, all licensees would be required to provide an email address no later than

Discussion on Planning Efforts to Transition to Primarily Electronic Publication and Distribution of *UPDATE*

Page 2 of 3

July 1, 2020.

If approved by the Legislature and Governor, these statute changes would take effect January 1, 2020.

Comments

Staff anticipate launching the electronic publication and distribution of the *UPDATE* on July 1, 2020 coinciding with the timeframe for all licensees to provide the CBA an email address.

There are certain key activities that must occur to facilitate a successful transition. The most significant is the collection of email addresses as this will be a critical tool to delivering the *UPDATE* publication to those who do not wish to receive a hardcopy.

Provided below is a preliminary overview of the activities and associated timeframes to implement this transition and begin the collection of email addresses.

Winter/Spring 2019

- Begin development of information technology enhancements that provide CBA licensees a simple online system to provide or update their email address of record. Launch system, when ready, to begin email address collection on a voluntary basis.

Summer/Fall 2019

- Legislation approved to authorize electronic *UPDATE* distribution and require licensees to provide email addresses.
- Consider a new format for the *UPDATE* to be more conducive to electronic publishing and will increase readership.
- Notify licensees of the upcoming requirement to report their email address.

Fall 2019/Winter 2020

- Notify licensees of requirement, and method, to opt-in to receive a hardcopy of the *UPDATE*.

Spring 2020

- Remind licensees of July 1, 2020 deadline to provide their email address and requirement to opt-in to receive hardcopy of the *UPDATE*.

Summer 2020

- Begin distributing the *UPDATE* to applicants and licensees who have an email address on file with the CBA; continue with hardcopy distribution to those who opt-in.
- Continue communication with licensees regarding email reporting requirement.

Discussion on Planning Efforts to Transition to Primarily Electronic Publication and Distribution of *UPDATE*

Page 3 of 3

CBA members will be kept apprised throughout 2019 and 2020 on the progress of these efforts.

Recommendation

Staff have no recommendation on this agenda item but welcome CBA feedback on the planning efforts to implement a primarily electronic publication and distribution of *UPDATE*.

Attachment

None.

Fall 2018/Winter 2019 Outreach Activities

California Society of CPAs' Student Luncheon in Sacramento

On November 16, 2018, California Board of Accountancy (CBA) staff attended an outreach event sponsored by the Sacramento Chapter of the California Society of CPAs (CalCPA). This annual event provides an opportunity for students interested in accounting to hear career-oriented advice and comments from a panel of CPAs who work in a variety of settings. Approximately 50 students were in attendance, including representatives from various accounting firms. CBA licensing staff Ashley Delle and Delia Tomas answered questions from attendees regarding CPA examination and licensure requirements.



*CBA licensing staff
Ashley Delle and Delia Tomas*



CBA Member Michael M. Savoy, CPA, Speaks at Golden Gate University

On November 27, 2018, Mr. Savoy spoke at Golden Gate University as part of their 7th Annual Braden Leadership Speaker Series. The topic of his speech was "Leaders: Born or Made." Mr. Savoy spoke and took Q&A from the audience for nearly an hour. About 35 individuals attended in person with 15 viewing online. Staff provided accompanying resource materials for CPA examination and licensure requirements.

Mr. Savoy speaking to event attendees at GGU

Pasadena City College Outreach Event Huge Success

Secretary/Treasurer Nancy J. Corrigan, CPA, was a featured speaker at a CalCPA outreach event on the campus of Pasadena City College, which drew more than 300 students in attendance. Ms. Corrigan gave opening remarks and discussed the requirements and process to sit for the Uniform CPA Examination and obtain CPA licensure. Ms. Corrigan also spoke on a panel of CPAs who discussed their path to the profession. CBA staff were on hand to answer questions and distribute materials that explain the examination, education, and experience requirements for licensure.

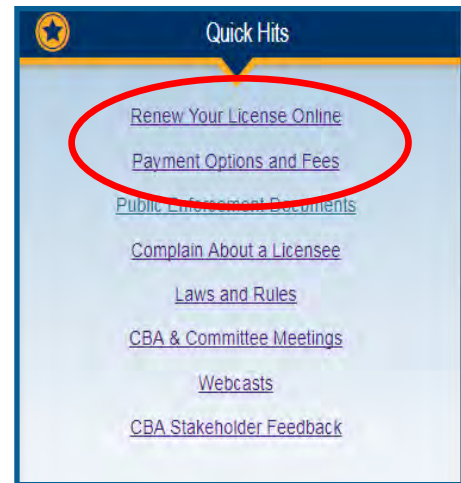


*Ms. Corrigan speaking at
Pasadena City College*

Online License Renewal Services Now Live

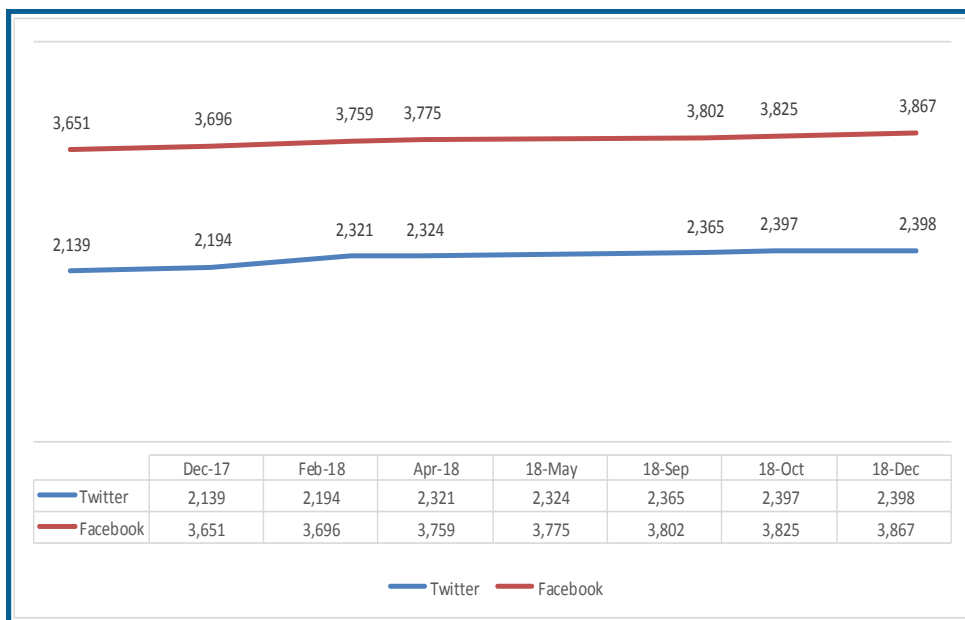
In December 2018, the CBA launched its online credit card payment system and began accepting license renewal applications and Peer Review Reporting forms when submitted via email. The CBA also published new website content to highlight and explain these new service offerings. In addition, staff developed a webpage that stakeholders can visit to locate all payment options, fee amounts, and related forms.

Links to these webpages are posted to the “Quick Hits” on the CBA’s homepage, discussed in an UPDATE article, shared on social media, and provided to stakeholders through the eNews. Further, the links were provided to CalCPA for distribution to their members.



Social Media Update—LinkedIn

In November 2018, the CBA’s LinkedIn account was migrated from a personal “profile” to a “Company Page” format. Due to this format change, all of the CBA’s followers were lost, and staff is in the process of rebuilding our following through the increased use of “social tags” and graphics. The use of graphics and new content is increasing numbers quickly. To assist in this effort, CBA members who use LinkedIn are encouraged to like the CBA’s Company Page and share its posted content with their networks.



SOCIAL MEDIA STATS

 3,867

 2,398

Outreach Campaigns and Upcoming Opportunities

California State University, San Bernardino, Outreach Event Planned for April 11, 2019

As a follow-up to a successful event held last February at California State University, San Bernardino, the CBA has been invited back to conduct an outreach event on April 11, 2019, for students and faculty. Planning discussions are underway with university representatives.

E-News

E News Subscriptions	Total
Consumer Interest	4,639
Examination Applicant	3,132
Licensing Applicant	3,792
California Licensee	9,916
Out-Of-State Licensee	2,513
Statutory/Regulatory	8,054
CBA Meeting Information & Agenda Materials	3,873
Update Publication	7,697
Total Subscribers	14,193
Total Subscriptions	43,616



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MEMORANDUM

DATE	January 10, 2019
TO	CBA Members
FROM	Christy Abate Administration Services Manager
SUBJECT	Revised CBA Item III.B. Overview of the Budget Process

On January 10, 2019 the Fiscal Month 4 (preliminary) projection report was finalized and is included as a handout to supplement CBA Item III.B. Overview of the Budget Process.

Attachment
FY 2018-19 Expenditure Projection Fiscal Month 4 (preliminary)



California Board of Accountancy

ENFORCEMENT ACTIVITY REPORT

www.cba.ca.gov

As of November 30, 2018

COMPLAINTS RECEIVED

The California Board of Accountancy’s (CBA) Enforcement Division receives complaints from both internal and external sources. Complaints received are issued complaint numbers and assigned a Complaint Type (CT) based on the initial matter identified. The CT may change as the case investigation proceeds and may result in multiple violations.

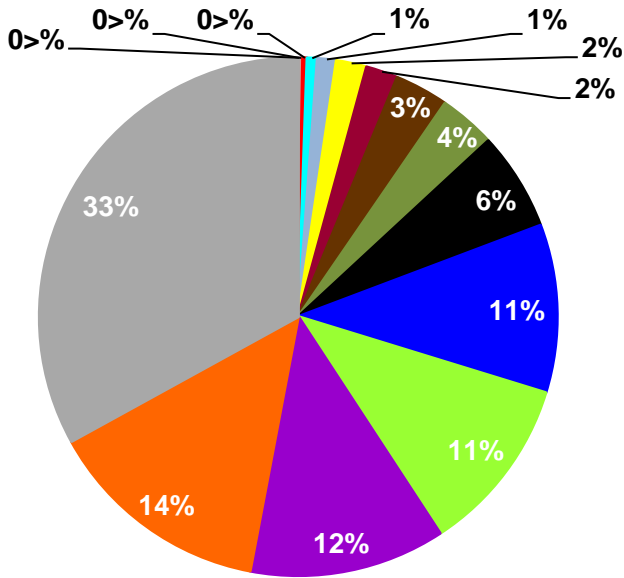
Complaints/Records of Convictions Received

FY 2018/19 (5 months of data)	1,106 Received Internal 802 External 304
FY 2017/18	2,435 Received -Internal 1,568 -External 867
FY 2016/17	2,508 Received -Internal 1,904 -External 604

- For the first five months of fiscal year (FY) 2018/19, the CBA received 1,106 complaints, with 73 percent of these complaints being internal referrals. The total number of complaints received during this quarter of the fiscal year has increased by 33 percent compared to the same time period in FY 2017/18 last fiscal year, from 829 to 1,106.
- For the first five months of FY 2018/19, the Enforcement Division received a total of 155 complaints identified to be “Unlicensed” related, which includes:
 - Four CPAs or firms operating with expired license
 - 38 individuals without a CPA license
 - 113 unregistered accounting firms

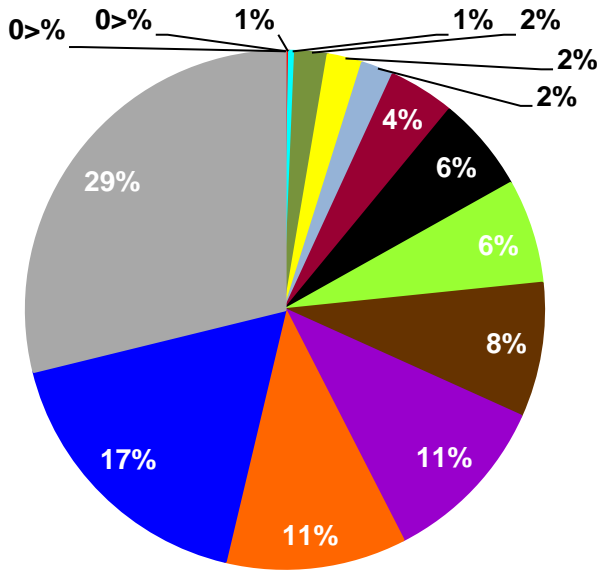
Staff is developing a more comprehensive statistical overview for complaints identified as “Unlicensed” and plan to incorporate it in the next report.

COMPLAINT TYPES RECEIVED



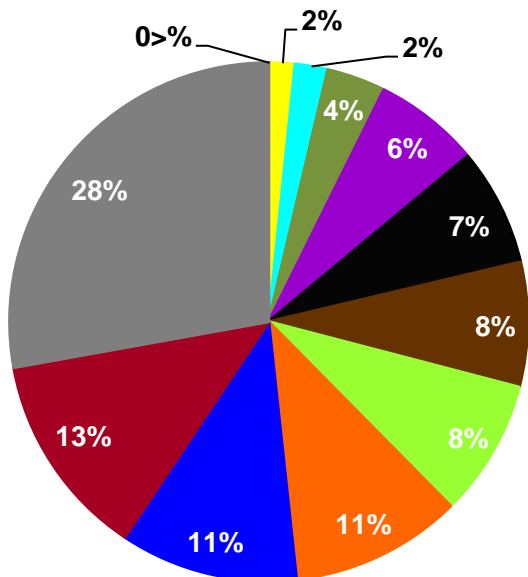
FY 2018/19

- Department of Justice (0%, 1)
- Department of Education (0%, 1)
- Department of Labor Referrals (0%, 3)
- Audit (1%, 7)
- Reportable Events (1%, 13)
- PCAOB/SEC and Out-of-State (2%, 21)
- Accountancy Licensee Database (2%, 22)
- Tax (3%, 37)
- Practice Privilege (4%, 39)
- Convictions and Subsequent Arrest (6%, 68)
- Peer Review Related (11%, 116)
- Applications (11%, 122)
- Other (12%, 135)
- Unlicensed Activity (14%, 155)
- Renewal Deficiency (33%, 365)



FY 2017/18

- Department of Justice (0%, 1)
- District Attorney (0%, 1)
- Department of Labor Referrals (1%, 5)
- Audit (1%, 9)
- Practice Privilege (2%, 49)
- PCAOB/SEC and Out-of-State (2%, 53)
- Reportable Events (2%, 49)
- Accountancy Licensee Database (4%, 100)
- Convictions and Subsequent Arrest (6%, 144)
- Applications (6%, 158)
- Tax (8%, 204)
- Other (11%, 261)
- Unlicensed Activity (11%, 274)
- Peer Review Related (17%, 425)
- Renewal Deficiency (29%, 702)



FY 2016/17

- Department of Labor Referrals (<0%, 3)
- PCAOB/SEC and Out-of-State (2%, 38)
- Audit (2%, 51)
- Practice Privilege (4%, 92)
- Other (6%, 166)
- Convictions and Subsequent Arrest (7%, 184)
- Tax (8%, 195)
- Applications (8%, 214)
- Unlicensed Activity (11%, 268)
- Peer Review Related (11%, 278)
- Accountancy Licensee Database (ALD) (13%, 321)
- Renewal Deficiency (28%, 698)

INVESTIGATIONS

The number of complaints assigned for investigations and closed.

Investigations	FY 2016/17	FY 2017/18	FY 2018/19 5 months of data
Investigations Assigned	2,185	2,436	1,106
Investigations Closed	2,222	2,356	1,500
Average Days to Close	175	201	152

For FY 2018/19, the average number of days to close decreased from 162 to 152, a six percent decrease since the last report.

Investigations Closed	FY 2018/19 5 months of data
Total Closed FY 2018/19	1,500
Closed within 0-6 Months	1,087
Closed within 6-12 Months	232
Closed within 12-18 Months	138
Closed within 18-21 Months	11
Closed within 21-24 Months	14
Closed >24 Months	18

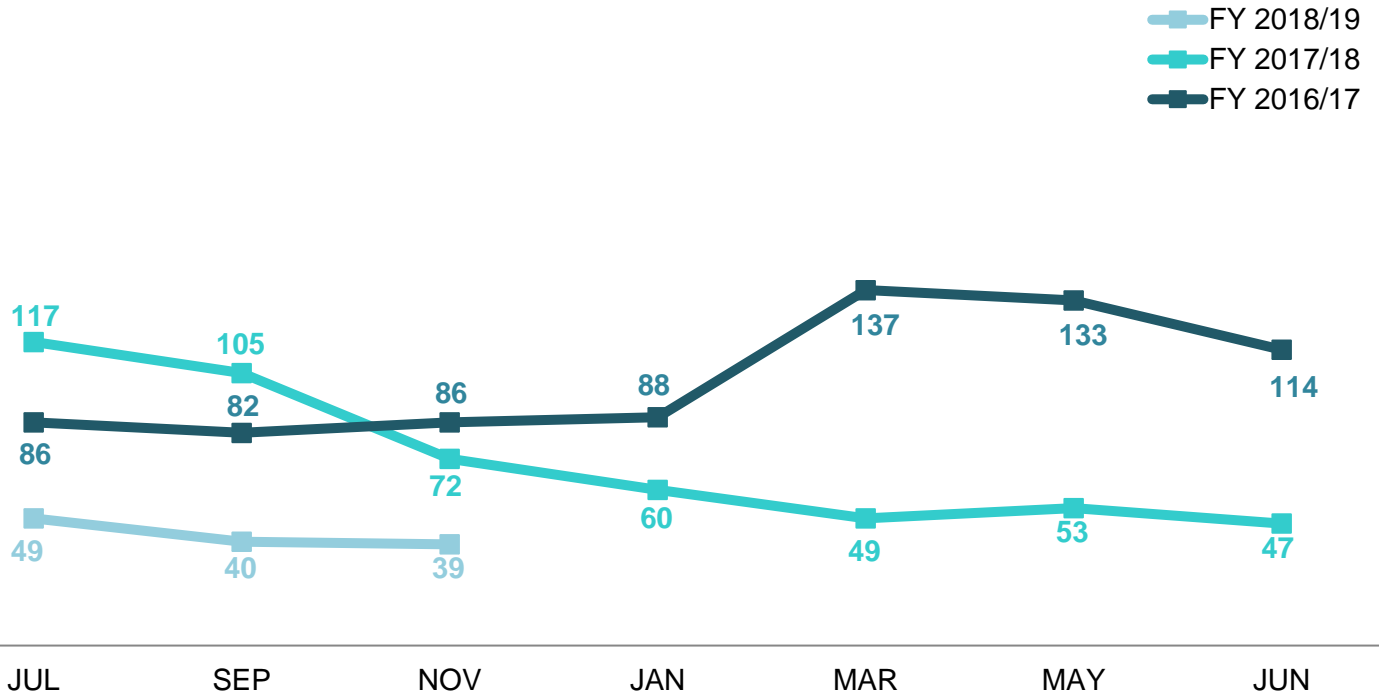
- Of the total 1,500 investigations closed during FY 2018/19, 1,087 or 72 percent were closed within six months from the initial complaint investigation date. Further, 1,319 investigations or 88 percent were closed within one year.

INVESTIGATIONS PENDING

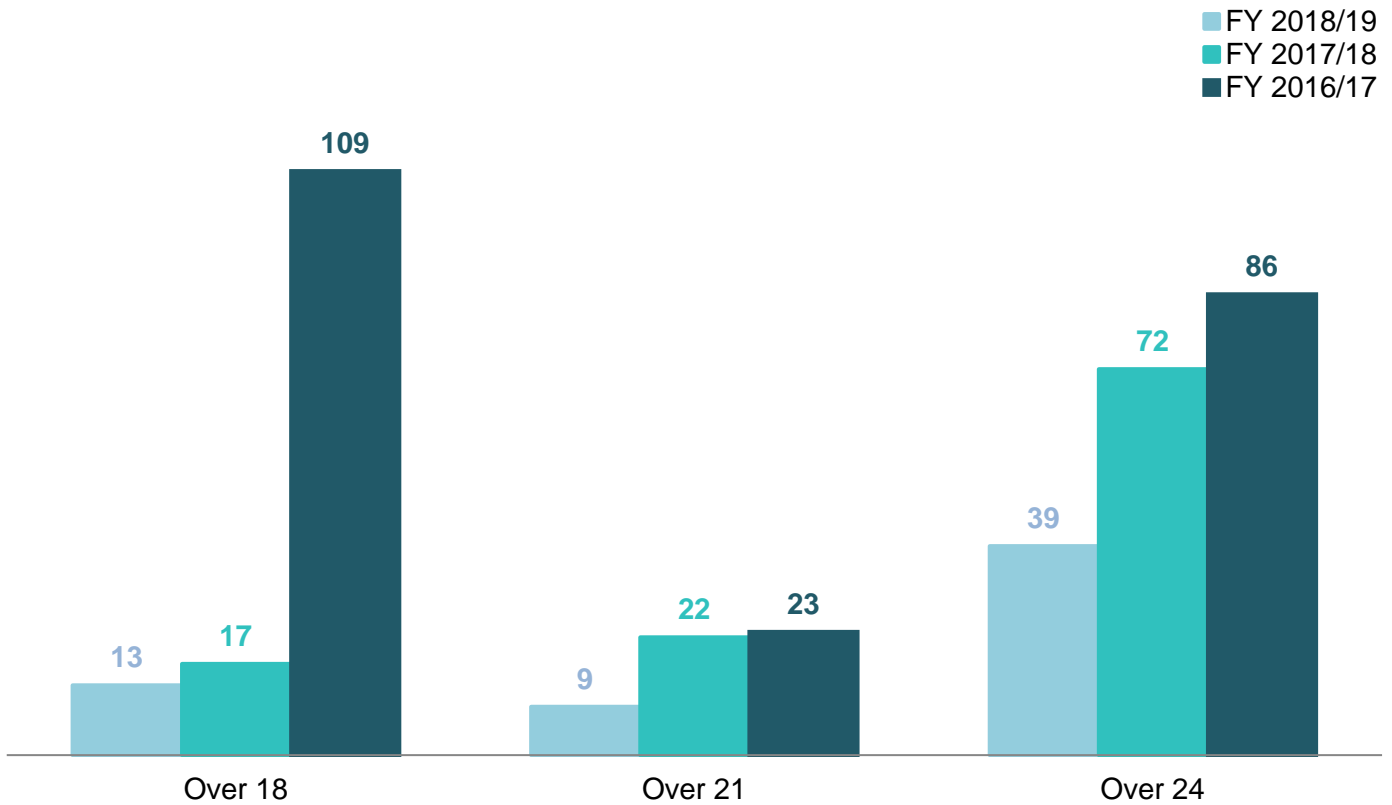
Investigations Pending	FY 2016/17	FY 2017/18	FY 2018/19 5 months of data
Total Investigations Pending	1,080	1,172	787
0-6 Months	545	797	568
6-12 Months	250	200	122
12-18 Months	95	104	36
18-21 Months	24	19	13
21-24 Months	52	5	9
>24 Months	114	47	39
Average Age of Open Cases (days)	172	186	174

- Of the total 787 pending cases as of November 30, 2018, nearly 72 percent were less than six months old and approximately 79 percent were less than one year old.
- Staff have made significant efforts to investigate and close all complaints promptly, especially aged cases. At this time last fiscal year, the number of complaints pending over 24 months was 72 while the same data point for this fiscal year shows only 39 complaints pending over 24 months, a 46 percent decrease. Similarly, at this time last fiscal year the CBA had 39 cases between 18 to 24 months. As of this report, the CBA has only 22 cases between 18 to 24 months, over a 44 percent decrease from the prior fiscal year.
- For FY 2018/19, a total of 21 cases over 24 months were closed.
- Of the 39 investigations pending over 24 months, staff have completed or are near completion on 19 of the cases, as follows:
 - 16 cases have an investigation report completed and will either be closed or referred to the Attorney General’s (AG) Office prior to the next report
 - Two cases have been investigated and will be closed by the next report
 - One case has been investigated and referred for disciplinary action

INVESTIGATIONS PENDING | OVER 24 MONTHS



INVESTIGATIONS PENDING | OVER 18, 21, and 24 MONTHS – NOVEMBER TRENDS

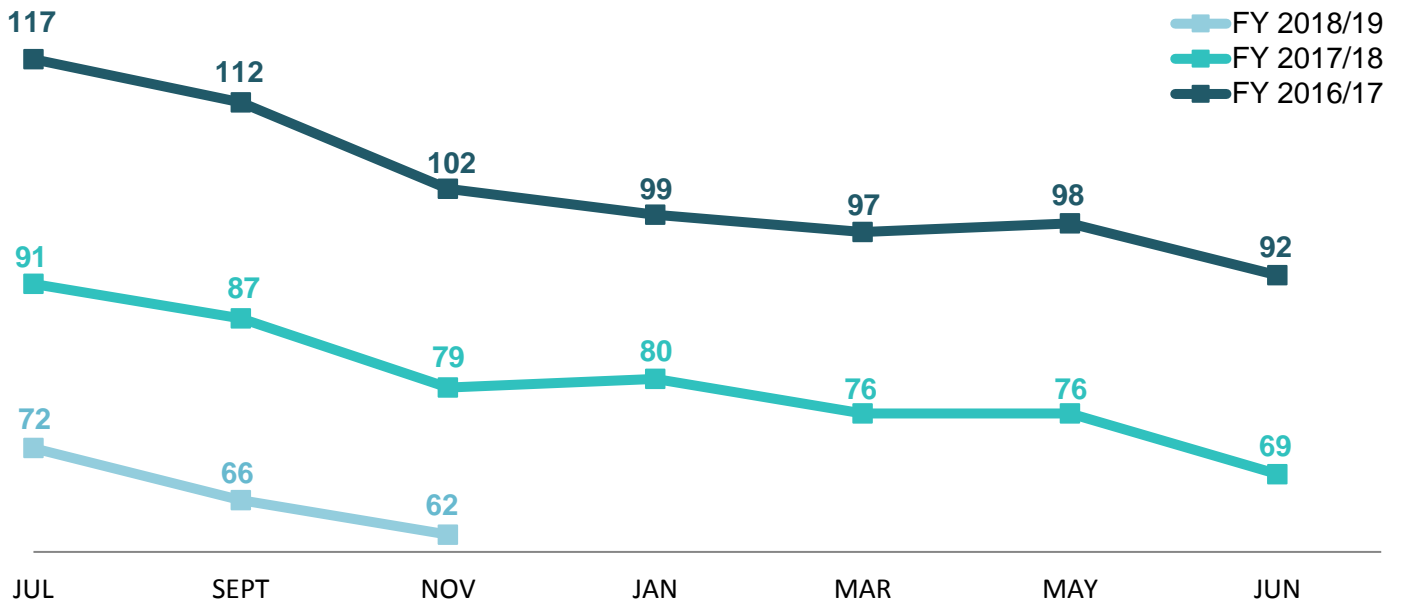


DISCIPLINE

As part of its mission of consumer protection, the CBA referred matters to the AG's Office for imposition of discipline.

Discipline	FY 2016/17	FY 2017/18	FY 2018/19 5 months of data
Attorney General Referrals	83	81	27
Accusations Filed	98	73	27
Statement of Issues Filed	1	1	0
Petition for Revocation Filed	6	6	0

DISCIPLINE | COMPLAINTS PENDING at ATTORNEY GENERAL'S OFFICE



As of November 30, 2018, there were 62 complaints pending at the AG's Office, consistent with the last report. Staff work diligently to address aging disciplinary cases by actively monitoring for the filing of a Notice of Defense (NOD). If no NOD is received, staff request that the AG's Office prepare a default decision. When an NOD is received, staff work quickly to offer settlement terms and if a settlement cannot be reached, to set the matter for hearing.

DISCIPLINE | AGE of COMPLAINTS PENDING at ATTORNEY GENERAL'S OFFICE

Pending at AG	FY 2016/17	FY 2017/18	FY 2018/19 5 months of data
Total Pending at AG's Office	92	69	62
0-6 Months	44	22	33
6-12 Months	23	31	11
12-18 Months	13	12	11
18-21 Months	1	2	2
21-24 Months	4	0	2
>24 Months	7	2	3

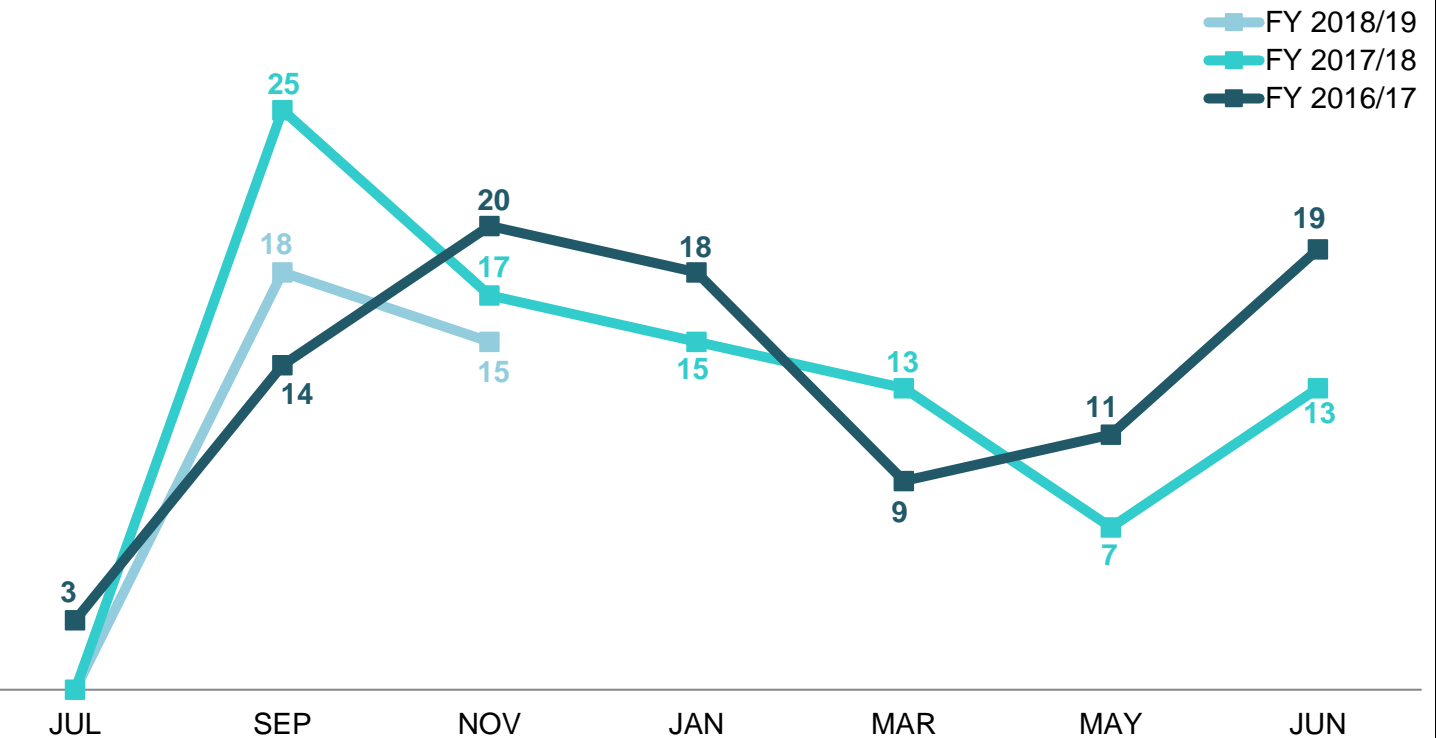
- Of the 62 cases at the AG's Office, 53 percent are less than six months old, and approximately 71 percent are less than 12 months old.
- There are three cases pending at the AG's Office for more than 24 months. The current status of the cases are as follows:
 - A Writ was filed with the California 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. The motion requesting a trial was denied at a hearing on December 12, 2014. The CBA submitted its appeal to the superior court and currently a ruling from the Court of Appeals is pending.
 - One case has an accusation filed and staff is working to obtain settlement or have the matter set for hearing.
 - One case has required assistance from the AG's Office, as part of the investigation.

DISCIPLINE | FINAL ORDERS

Disciplinary Actions	FY 2016/17	FY 2017/18	FY 2018/19 5 months of data
Final Decision Orders	94	90	33
-Stipulated Settlement	74	68	25
-Proposed Decision	7	6	1
-Default Decision	13	16	7

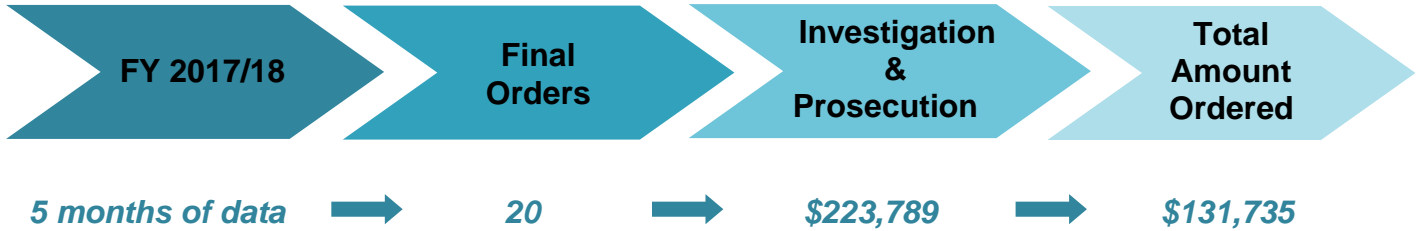
As of November 30, 2018 the CBA took action on 33 matters, the majority of which were through stipulated settlements.

DISCIPLINE | FINAL ORDER TREND



DISCIPLINE | COST ORDERS

Pursuant to Business and Professions Code section 5107, the Legislature authorizes the CBA to recover investigation and prosecution costs. These costs include the time spent by staff to conduct the investigation and the time spent by the AG’s Office to prosecute each case.



Cost Recovery amount ordered is only 59 percent of total investigation and prosecution cost.

COST RECOVERY

Cost Recovery	FY 2016/17	FY 2017/18	FY 2018/19 5 months of data
Amount Ordered	\$395,585	\$374,339	\$131,735
-Number of Decisions	59	56	20
Amount Collected	\$324,987	\$316,621	\$145,110

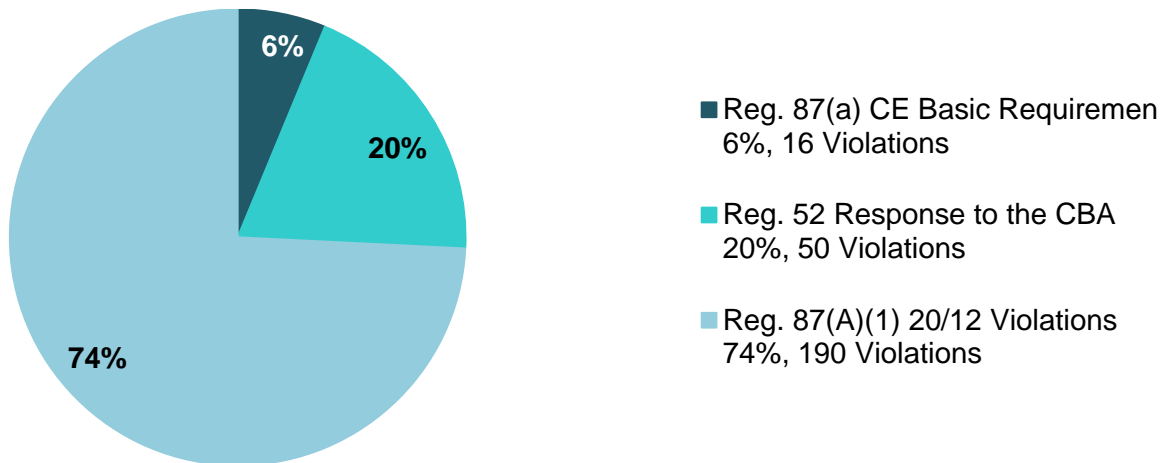
- Disciplinary cases resulting in ordered cost recovery are generally the result of a licensee placed on probation. Licensees can generally ask to pay cost recovery in monthly payments throughout the term of probation. As such the costs are generally paid within a two to two-and-one-half year timeframe.
- The “Amount Collected,” referenced above includes payments on cost recovery amounts ordered from both prior and current years. The “Amount Ordered,” reflects only amount ordered in FY 2018/19 and will never reconcile with the “Amount Collected.”

CITATIONS AND FINES

Citations	FY 2016/17	FY 2017/18	FY 2018/19 5 months of data
-Total Citations Issued	156	127	238
-Total Fines Assessed	\$55,650	\$55,230	\$69,275
-Fine Average	\$357	\$435	\$291
Average Number of Days from Receipt of Complaint to Issuance of Citation	160	231	193

CITATIONS AND FINES | FY 2018/19 TOP 3 VIOLATIONS

Five months of data



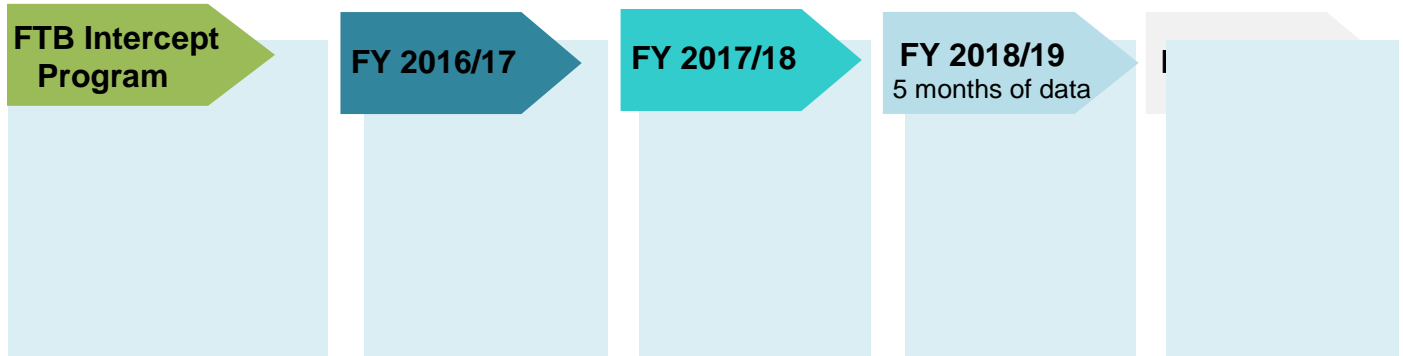
The fine amount assessed varies from \$100 to \$5,000 and is determined on a case-by-case basis. Factors that may increase or decrease the fine amount include aggravating or mitigating circumstances, and length of time the violation occurred.

The total number of citations issued for FY 2018/19 as of November 30, 2018 is 238. The number has outpaced prior fiscal year-end total citations issued. The increase is a direct result of a recent internal workload shift within the Enforcement Division regarding violation of CBA Regulation 87(A)(1), a requirement since 2009 commonly referred to as the 20/12 requirement. Previously, the CBA License Renewal Unit handled 20/12 initial violations and issued warning letters. As of FY 2018/19 the Enforcement Division handles all license renewal applications identified to have violated the 20/12 requirement and make determinations on a case-by-case basis whether to issue a warning letter or a citation and fine.

The average number of days from receipt of a complaint to issuance of a citation has decreased by 16 percent since the last fiscal year-end report, from 231 to 193.

FRANCHISE TAX BOARD | INTERCEPT PROGRAM

In FY 2015/16 the CBA began using the Franchise Tax Board (FTB) Intercept Program in an effort to collect unpaid administrative fines associated with the issuance of citations. The initial collection amount submitted to the FTB was significant and the pool of unpaid administrative fines dated back to FY 2011/12.



Between FY 2015/16 and FY 2017/18, the CBA referred to FTB, a total of \$311,650 of uncollected fees associated with the issuance of citations. By the end of FY 2017/18, on behalf of the CBA, the FTB retrieved \$70,479 of uncollected fees, resulting in an end of year balance of \$241,171 of uncollected fees.

PROBATION MONITORING

Monitoring Activity	FY 2018/19
Numbers of Licensees on Probation as of Last Report	160
New Probationers Since the Last Report	7
Number of Probationer(s) Off Probation	2
Total number of Probationers	165
Out-of-State Probationers	19
Probation Orientations Held Since Last Report	6
Total Probation Orientations Completed	23
Number of Outstanding Orientations to Complete	0
Number of Practice Investigations Completed	0
Referrals to Revoke Probation	1

- Six probation orientations are scheduled to take place after November 30, 2018.
- Two probationer's work samples were reviewed for FY 2018/19.

PROBATION MONITORING | VIOLATIONS DETECTED

CPAs disciplined for various violations may be placed on probation for an ordered amount of time with required terms. To ensure probationers successfully fulfill their probationary terms, the CBA Probation Monitoring Unit continuously reviews individual probation files and identifies violations, notifies probationers, records all monitoring activities, and communicates with the probationers to obtain compliance with probation terms.

Violations detected for FY 2018/19 as of November 30, 2018 includes:

Probation Violation(s) Types	Detected
Cost Reimbursement	7
Obey All Laws	1
Submit Written Quarterly Report	9
Active License Status	0
Restricted Practice	1
Regulatory Review Course	1
Continuing Education	1
TOTAL	20

DIVISION HIGHLIGHTS AND RECRUITMENT EFFORTS

As of June 2018, the CBA Enforcement Division commenced participation in the Department of Consumer Affairs (DCA) Enforcement Workgroup Meeting with a focus on enforcement statistical reporting and monitoring.

The DCA Enforcement Workgroup met on May 14, 2018, July 9, 2018, September 10, 2018, and November 5, 2018 to discussed performance measures.

The Enforcement Division has hired on a new full-time Associate Governmental Program Analyst for the Non-Technical Investigative Unit and one full-time Associate Governmental Program Analyst for the AG's Unit

The CBA Enforcement Division is recruiting for the following positions:

- Two full-time ICPAs for the Technical Investigations Unit
- Two limited-term ICPAs for the Technical Investigations Unit
- One ICPA Retired Annuitant for the Technical Investigations Unit
- One full-time Associate Governmental Program Analyst for the Non-Technical Investigations Unit



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CBA Item VI.B.
January 17, 2019

Overview of the Enforcement Process and Petition Hearings

Presented by: Dominic Franzella, Chief, Enforcement Division

Purpose of the Item

The purpose of this item is to provide the California Board of Accountancy (CBA) with an Overview of the Enforcement Process and Petition Hearings.

Consumer Protection Objectives

Ensuring the CBA understands its role in the adjudicative process is paramount to the CBA's ability to meet its consumer protection mandate.

Action(s) Needed

No specific action is required on this agenda item.

Background

The CBA receives information on its quasi-judicial responsibilities associated with the enforcement process and petition hearings via multiple sources. Newly appointed CBA members must complete a new member orientation conducted by the Department of Consumer Affairs, during which aspects of the adjudicative process are discussed. In addition, senior staff conduct a CBA-specific new member orientation. Information on the enforcement process is also included in the CBA Guidelines and Procedure (G&P) Manual and provided in the closed session enforcement matters materials.

Comments

The newly developed materials are designed to provide a more comprehensive tool for the CBA in the discharge of its quasi-judicial responsibilities. **Attachment 1** – Overview of the Enforcement Process – provides information on:

- Role of the CBA Members
- Processing Complaints
- Conducting Investigations
- Conclusion of Investigations
- CBA Meetings
- Factors to Consider When Deciding Whether to Adopt or Non-Adopt a Proposed Decision

Overview of the Enforcement Process and Petition Hearings

Page 2 of 2

- Suggestions for Reviewing “The Record” and Preparing to Discuss and Render a Decision After Non-Adoption

Going forward, staff will include this document in the closed sessions materials for the CBA.

Attachment 2 – Petition Hearings – provides information on:

- Petition Process
- Petition Hearing
- Role of the CBA
- Examples of Petition Hearings

Going forward, when a petition hearing is scheduled for a CBA meeting, staff will include this document in the CBA meeting materials.

Additionally, these documents will replace existing materials included in the new CBA member orientation and select information will be added to the G&P Manual to ensure overall consistency.

Fiscal/Economic Impact Considerations

There are no fiscal/economic impact considerations.

Recommendation

Staff do not have a recommendation on this agenda item.

Attachments

1. California Board of Accountancy Overview of the Enforcement Process
2. California Board of Accountancy Petition Hearings



CALIFORNIA BOARD OF ACCOUNTANCY

OVERVIEW OF THE ENFORCEMENT PROCESS

Attachment 1



DISCLAIMER

The information provided in this document is for the purpose of providing a general overview of the enforcement process. It is not prepared to cover all topics or issues. Further, the document does not supersede any statutes, regulation, or case law; and if there is a conflict, statute, regulation, or case law is controlling. Further, this does not override legal advice by CBA Legal Counsel or Attorney General's Office, as each case is unique.

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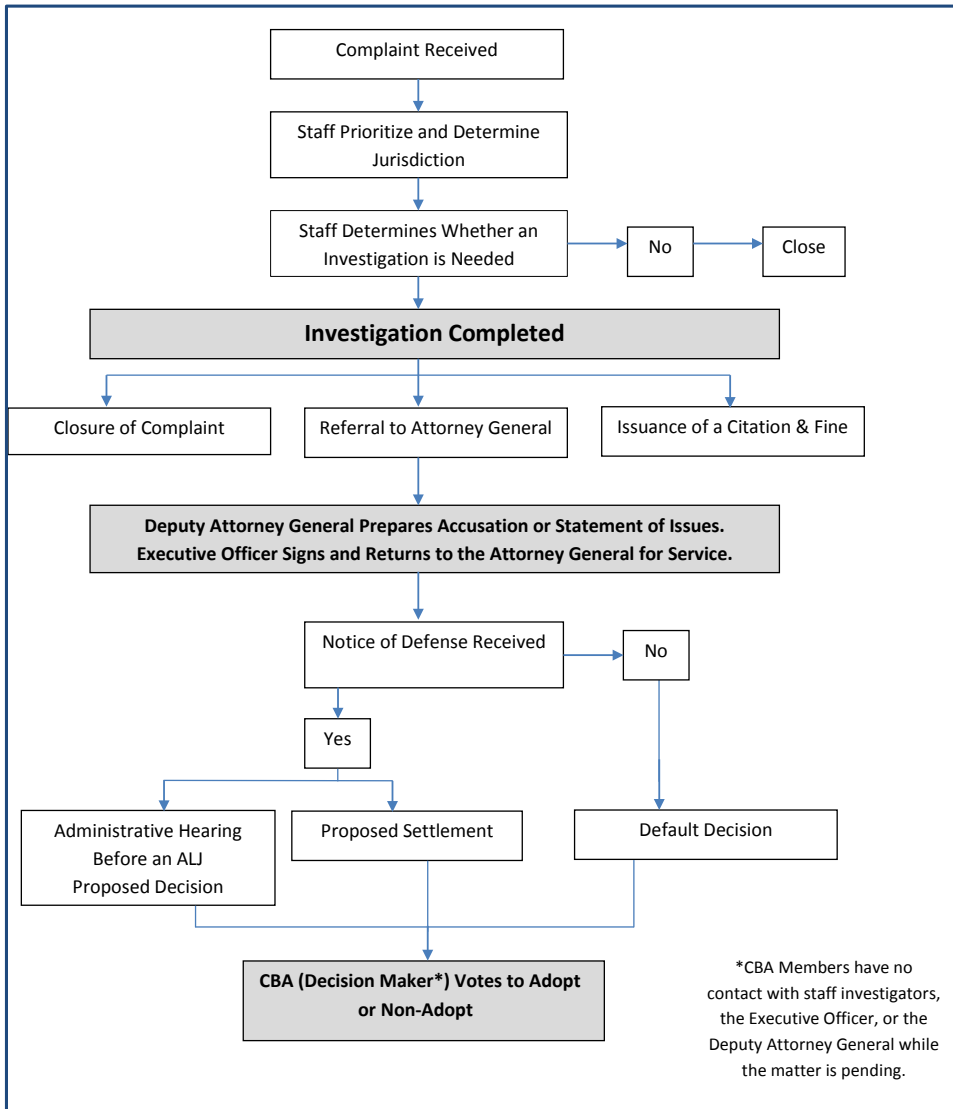
ROLE OF CALIFORNIA BOARD OF ACCOUNTANCY MEMBERS

California Board of Accountancy (CBA) members serve as the decision makers during the enforcement process. Disciplinary actions are considered by CBA members in closed session at its regularly scheduled meetings.

The Administrative Procedure Act requires that the adjudicative functions of an agency be separated from the investigative, prosecutorial, and advocacy functions within the agency. This means that CBA members, which are charged with rendering the ultimate decision in the case, cannot have served as an investigator, prosecutor or advocate at the administrative hearing or during the pre-hearing phase.

Separation of functions requires the CBA to have barriers separating the decision maker in the administrative proceeding and the prosecutorial and investigative staff. **Table 1** provides an overview of the disciplinary process and the roles of those involved.

Table 1



PROCESSING COMPLAINTS

The CBA receives complaints from consumers, professional societies, law enforcement agencies, and other governmental agencies. The CBA generates a large volume of internal referrals from the Licensing Program, CBA Committees, and from within the Enforcement Program itself. Staff also regularly monitor news and social media for information regarding licensees or unlicensed practice that may suggest violations of the California Accountancy Act or CBA Regulations.

Common complaints/referrals received and reviewed by the CBA include:

- Negligence and incompetence
- Fraud, deceit, and misrepresentation in the practice of public accountancy
- Failing to perform services in accordance with professional standards
- Criminal convictions
- Administrative actions by other governmental agencies, including the Securities and Exchange Commission, Public Company Accounting Oversight Board, Internal Revenue Service, and California Franchise Tax Board
- Administrative violations for failing to comply with license renewal requirements and unlicensed practice

External/consumer complaints are subjected to an initial screening process. The CBA investigates complaints within its jurisdiction. These include, but are not limited to, matters concerning fee disputes, employer/employee relations, and complaints involving unsubstantiated allegations from anonymous sources.

The CBA Enforcement Program reviews and prioritizes cases using the following categories:

- High – These are cases/complaints in which the CBA believes ongoing consumer harm is present and, therefore, the promptness of the investigation is paramount. It is as part of these cases/complaints that the CBA evaluates whether to seek an Interim Suspension Order or to recommend that the courts act under Penal Code section 23.¹
- Standard – These are cases/complaints that do not pose an immediate threat of harm to consumers, unlicensed activity that does not pose an immediate threat of harm to consumers, fraud, and the making of false/misleading statements, such as matters referred from outside sources.
- Actionable – These are cases/complaints with only minimal investigation necessary and generally result in the issuance of citations and fines. Examples of these types of cases/complaints include failing to respond to CBA inquires and continuing education deficiencies.

¹ An Interim Suspension Order allows the CBA or an administrative law judge (sitting alone) to suspend a licensee or impose license restrictions, including but not limited to, mandatory biological fluid testing, supervision, or remedial training based on affidavits demonstrating that the licensee has engaged in acts or omissions that constitute a violation of the Business and Professions Code or has been convicted of a crime substantially related to the practice of accountancy, and that permitting the licensee to continue practicing or continue practicing without restrictions, would endanger the public health, safety, or welfare. (Business and Professions Code, § 494, subdivision (a).)

Penal Code section 23 allows the board to voluntarily appear before a court in a criminal proceeding against a licensee to furnish pertinent information, make recommendations regarding specific conditions of criminal probation, or provide any other assistance necessary to promote the interests of justice and protect the interests of the public.

A complaint is not public information unless the matter proceeds to hearing and the complaint is disclosed on the record.

CONDUCTING INVESTIGATIONS

Once the Enforcement Program establishes jurisdiction, complaints are assigned for investigation. The purpose of an investigation is to gather facts and make assessments of whether violations of the California Accountancy Act and CBA Regulations have occurred.

The CBA uses a combination of resources to perform and complete its investigations. The Enforcement Program employs both technical (Investigative CPAs) and non-technical (Enforcement Analysts) resources to perform the vast majority of its investigations.

The less complex investigations are conducted by Enforcement Analysts and generally involve:

- Unlicensed practice
- Continuing education deficiencies
- Criminal convictions
- Cancellation, suspension, or revocation, of other right to practice as a CPA before any other governmental agency
- Other administrative violations

The more complex investigations are conducted by Investigative CPAs and generally involve:

- Gross negligence
- Repeated negligent acts
- Embezzlement
- Non-conformity with professional standards

When appropriate, the CBA will engage outside expert consultants via contract. For certain matters, especially those related to unlicensed practice, the CBA will engage the Department of Consumer Affairs Division of Investigation to assist in handling a case.² On occasion, the CBA will refer a matter over to the Attorney General's Office to assist in the investigative stage (sometimes known as vertical enforcement).

The CBA's Enforcement Advisory Committee works in an advisory capacity to the CBA and provides advice and assistance relating to the CBA's investigation of complaints, conducting investigations or hearings, and obtaining information and evidence regarding any matter involving the conduct of licensees. The Enforcement Advisory Committee is comprised of CPAs who work in the profession and practice in a broad range of services. These individuals volunteer their time and expertise and are appointed by and serve at the pleasure of the CBA for two-year terms.

Once an investigation is initiated, the Enforcement Program will notify the licensee of the complaint. The primary method for contacting licensees regarding CBA-related matters is via first-class mail.³ When contacting licensees, staff use the address of record licensees have on file with the CBA.

² Certain staff within the Division of Investigation carry Peace Officer status.

³ 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."

Included in the letter will be information on the nature of the alleged violation(s) being investigated and specific information being requested from the individual relating to the complaint, which could include providing documents to the CBA, answering specific questions, or both. The letter will also provide specific information on where to send a response, which may be a specific Enforcement Program staff member or a specific unit within the Enforcement Program.

Generally, a licensee is given 30 days to submit a written response to any request from the CBA. The Enforcement Program may make multiple requests during the investigation to obtain all necessary and relevant facts and documentation.

As part of an investigation the CBA may require a licensee appear in person at an Investigative Hearing.⁴ The purpose of an Investigative Hearing is both to gather information and evidence and provide the licensee an opportunity to present his/her position on matters under investigation. An Investigative Hearing is generally conducted with the assistance of the Enforcement Advisory Committee.

At an Investigative Hearing, the licensee is placed under oath, with questions and answers being recorded by a certified court reporter. In some cases, there may be a need for multiple Investigative Hearings to discover the facts. The licensee may have an attorney present at an Investigative Hearing.

CONCLUSION OF AN INVESTIGATION

Cases conclude with one of the following outcomes:

- Closure – The matter is closed due to insufficient evidence of a violation of the California Accountancy Act or CBA Regulations, lack of jurisdiction, or compliance.
- Citation – The matter results in the issuance of a citation, including the issuance of an administrative fine.
- Formal Discipline – The matter results in a referral of the matter to the Attorney General Office requesting the filing of an Accusation.

Citation

Citations are an effective means to address violations of the California Accountancy Act, CBA regulations, or both instead of filing an Accusation against a licensee. Citations are not considered formal disciplinary action and are issued by the CBA's Executive Officer.

When a citation is issued, the licensee will receive the Citation Order in the mail, along with the following:

- A statement informing the licensee of their right to appeal
- An explanation of the consequences of failing to either comply with or appeal the citation
- Contact information for the Enforcement Program staff handling the citation
- A detailed description of the violation(s)
- An order of abatement
- An order of correction, if applicable

⁴ Investigative Hearings are conducted pursuant to Business and Professions Code section 5103. The transcript of an Investigative Hearing is kept confidential as part of the CBA's overall investigation. An Investigative Hearing transcript will only be released to the licensee as part of the discovery process should the matter result in the filing of an Accusation for formal discipline.

- The amount of the administrative fine assessed, if any
- A blank notice of appeal form
- Information regarding discovery

Failure to pay a citation will result in the outstanding administrative fine being added to license renewal fees and a licensee with an outstanding administrative fine will be unable to renew his/her license until the citation is paid. Failure to comply with the citation constitutes unprofessional conduct under Business and Professions Code section 5100(g) and CBA Regulations section 95.4 and may lead to formal discipline.

The licensee may appeal the citation by requesting an administrative hearing.

Formal Discipline

If an investigation finds a violation of the California Accountancy Act, CBA Regulations, or both, and the Executive Officer determines that the imposition of formal discipline is appropriate (as opposed to issuing a citation), the matter is referred to the Attorney General's Office for the preparation of an Accusation. Prior to the filing of an Accusation, the licensee will receive a letter from the CBA notifying him/her of the specific laws, regulations, or both that will be the subject of the Accusation.

The letter also includes the contact information for the Enforcement Program manager who is handling the case. The licensee can contact the CBA with administrative questions until the case is formally assigned to the Attorney General's Office, at which point all communication will need to be with the assigned Deputy Attorney General. The Attorney General's Office will contact the licensee when the case has been formally assigned to a Deputy Attorney General.

Accusation

An Accusation is a formal document prepared by a Deputy Attorney General on behalf of the Executive Officer that charges alleged violation(s) of the laws, regulations, or both under CBA's jurisdiction by a licensee.⁵ The charges in the Accusation are allegations, which are subject to adjudication before an administrative law judge with the final decision made by the CBA.

Once the Accusation is prepared by the assigned Deputy Attorney General and signed by the Executive Officer, it is served on the licensee at his/her/its address of record with the CBA. The Accusation is also served to other known addresses of the licensee (including jail or prison). The licensee has an opportunity to file a Notice of Defense and request an administrative hearing before an Administrative Law Judge.

The California Administrative Procedure Act (Government Code section 11370 et. seq.) sets forth requirements for providing notice of administrative actions.

Government Code 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

⁵ An Accusation can be filed against an individual, an accounting firm, or both.

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.

Government Code section 11505(c) states:

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 Attorney General'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 Attorney General's Office can send the materials via registered mail.⁶ When sending the materials, the Attorney General's Office does so via certified and first-class mail.

The 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 have 15 days to file a Notice of Defense.

Representation by Counsel

A licensee has the right to be represented by an attorney throughout the formal discipline process, including at the hearing, at the licensee's expense. The CBA does not provide an attorney for a licensee.

Notice of Defense

The Notice of Defense is a document served concurrently with the Accusation. This document allows the licensee to request an administrative hearing, be considered for a stipulated settlement, surrender his/her/its license, among other things, and provide the CBA with his/her/its attorney's information if he/she/it is represented.

The Notice of Defense must be signed and returned to the Attorney General's Office within 15 days of the date the Accusation was mailed to the licensee. Failure to do so constitutes a waiver of the licensee's right to a hearing, but the CBA may nonetheless, in its discretion, grant a hearing. If an administrative hearing is scheduled, a Notice of Hearing, including the date, time, and location of the hearing, is mailed to all parties at least 10 days before the hearing.

⁶ Government Code 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."

Ex Parte Communication Prohibited

When an Accusation is prepared, the Executive Officer is the complainant (the prosecutor) and is represented by a Deputy Attorney General from the Attorney General's Office. The CBA members are the decisionmakers and are represented by CBA Legal Counsel.⁷ While the proceeding is pending, the CBA Enforcement Program staff, Executive Officer, and Deputy Attorney General are prohibited from communicating directly or indirectly with the CBA members or CBA Legal Counsel regarding any issue in the case, without notice and opportunity for all parties to participate in the communication.⁸

Default Decision

A default decision is prepared by a Deputy Attorney General for consideration by CBA members when a licensee does not timely file a Notice of Defense or fails to appear at the scheduled administrative hearing. If adopted by the CBA members, it results in the CBA taking action against the license. If the licensee fails to appear at the administrative hearing, the CBA members or Administrative Law Judge, before the proposed decision is issued, have discretion to grant an administrative hearing on reasonable notice to the parties.⁹

Default decisions occur in about 20 percent of the matters brought before the CBA members. Documents CBA members will receive include:

- Accusation
- Default Decision and Order
- Default Decision Investigatory Evidence Packet (the package will vary but generally include the Accusation, Statement to Respondent (including Declaration of Service), License History, Cost of Investigation and Prosecution, and Investigative Report)
- Memorandum from the CBA Legal Counsel that summarizes the causes for discipline and recommended options

During closed session, CBA members must make their decision based on the record, which includes only the items specified above. CBA Legal Counsel will present the Default items, and a is limited to providing CBA members with advice on procedural and legal issues. Staff and the Deputy Attorney General liaison are not present in closed session for the CBA's discussion on default decisions. This is to ensure compliance with requirements associated with *ex parte* communication.

If the CBA members adopt the default decision, the licensee may serve a written motion within seven days of the default decision being served on the licensee requesting that the CBA members vacate the decision. CBA members may vacate the default decision and grant a hearing on a showing of "good cause."¹⁰

Stipulated Settlement

A stipulated settlement is a negotiated agreement between the Enforcement Program, with the assistance of the Attorney General's Office, and the licensee where the parties agree on a resolution to the matter. The

⁷ Each Department of Consumer Affairs board is assigned an attorney by the Department of Consumer Affairs Legal Affairs Division to act as in-house legal counsel. In CBA-related enforcement matters, the assigned in-house counsel represents the CBA members and not the Executive Officer or Enforcement Program staff. In enforcement matters, the Executive Officer and staff are represented by the Attorney General's Office.

⁸ Government Code section 11430.10

⁹ If the CBA and Administrative Law Judge make conflicting orders, the CBA's order takes precedence.

¹⁰ Good cause includes, but is not limited to, failure of the licensee to receive the notice of the Accusation, and mistake, inadvertence, surprise or excusable negligence (Government Code section 11520(c)).

Enforcement Program uses the CBA's Disciplinary Guidelines, which have been adopted by the CBA, when drafting and negotiating stipulated settlements.

The CBA members vote whether to approve the proposed stipulated settlement as its decision and order in the matter. CBA members may adopt the proposed stipulated settlement as the CBA decision in the matter, make a counteroffer with alternate terms, or reject the proposed stipulated settlement and allow the matter to proceed to hearing. If the proposed stipulated settlement is not adopted by the CBA members, the matter is referred to the Enforcement Program to be scheduled for a hearing, unless another stipulated settlement is negotiated and presented to the CBA members for consideration.

Stipulated settlements occur in about 75 percent of the matters brought before the CBA members. Documents CBA members will receive include:

- Accusation
- Stipulated Settlement
- Letter from the Deputy Attorney General advocating the adoption of the settlement
- Memorandum from the Enforcement Chief that summarizes the allegations in the Accusation, outlines the terms agreed to by the parties, and approximate costs incurred by the CBA in the investigation and prosecution of the matter

During closed session CBA members are free to discuss cases involving stipulated settlements with the Enforcement Chief prior to deciding on the cases. While *ex parte* communication is prohibited by the Administrative Procedure Act while cases are pending, it is specifically permitted by one of the standard conditions included in the proposed stipulated settlement, which the licensee has already agreed to prior to it being considered by the CBA.

All decisions rendered by CBA members must be based on the administrative record, which are the documents, described above, presented to the CBA members. CBA members are prohibited from unilaterally increasing the discipline terms of a proposed stipulated settlement, but they can make a counter-offer, or provide guidance to the Executive Officer and Enforcement Chief regarding future settlement negotiations. Staff and the Deputy Attorney General liaison are present in closed session for the CBA's discussion of the stipulated settlement.

Proposed Decision

In cases where a licensee files a timely Notice of Defense and the case is not settled, it will proceed to a hearing before an Administrative Law Judge. A licensee's rights include, but are not limited to, the following: right to counsel at the licensee's own expense; notice and an opportunity to be heard, including the opportunity to present and rebut evidence; a hearing open to public observation; that the adjudicative function be separated from the investigative, prosecutorial, and advocacy functions within the CBA and a restriction on *ex parte* communication; and that the decision be in writing, based on the record, and include a statement of the factual and legal basis for the decision.¹¹

The Administrative Law Judge will prepare a proposed decision, which will be provided to the CBA to make the final decision in the matter. The proposed decision will also include a recommended order that will (1) uphold

¹¹ The factual and legal basis for the decision. The factual basis for the decision must be based exclusively on the evidence in the hearing record (testimony and all exhibits received into evidence).

the discipline advocated for by the agency, (2) modify the discipline or denial to include something less or more than the agency advocated, or (3) dismiss the case in its entirety.

CBA members must take one of the following five actions within 100 days of the date the CBA receives the proposed decision from the Office of Administrative Hearings:

1. Adopt the proposed decision in its entirety as its decision in the matter
2. Reduce the penalty proposed by the Administrative Law Judge and adopt the balance of the proposed decision
3. Make technical or other minor changes to the proposed decision and adopt the balance of it
4. Reject the proposed decision and refer the case back to the Administrative Law Judge for additional evidence
5. Reject (non-adopt) the proposed decision and decide the case on the record, including the transcript.

If CBA members do not take one of these five actions within the 100-day period, the proposed decision is deemed adopted by operation of law.

Rejection (non-adoption) of a proposed decision results in CBA member's later reviewing the administrative record, hearing transcript, written or oral arguments by the parties, and then CBA members reaching their own decision based upon this information.

CBA Legal Counsel prepares a draft of the Decision After Rejection of Proposed Decision based on closed session discussion with CBA members, which they then review and approve. The CBA's final decision must be issued within 100 days after the date of the rejection of the proposed decision, or within 100 days after the CBA receives the hearing transcript, whichever is later. If required by "special circumstances," the CBA may extend the 100 days an additional 30 days.

Proposed decisions occur in about five percent of the matters brought before the CBA members. Documents CBA members will receive include:

- Accusation
- Proposed decision
- Memorandum from CBA Legal Counsel that summarizes the findings and proposed discipline

In making the initial determination regarding whether to adopt or reject a proposed decision during closed session, CBA members may ask CBA Legal Counsel questions regarding the California Accountancy Act, CBA Regulations, CBA's Disciplinary Guidelines, and procedural questions regarding matters that involve the proposed decisions being discussed.

At this stage, CBA members do not have a copy of the hearing transcript or administrative record and must make the decision based on the Accusation and the proposed decision. Staff and the Deputy Attorney General liaison are not present in closed session for the CBA's discussion of proposed decisions. This is to ensure compliance with requirements associated with *ex parte* communication.

Table 2 provides an overview of the CBA’s Role in Proposed Decisions. As CBA members consider whether to adopt on non-adopt (reject) a proposed decision, they should review the section of this document titled “Factors to Consider When Deciding Whether to Adopt or Non-Adopt a Proposed Decision.”

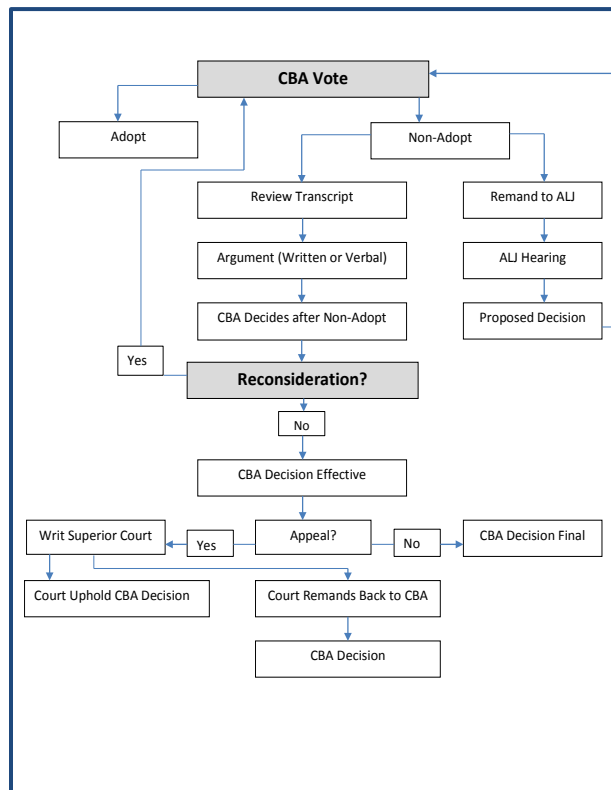
Petition for Reconsideration

After a decision issued, Respondent or Complainant (the CBA Executive Officer) may petition for reconsideration. If the petition the CBA grants the petition for reconsideration, the parties are typically offered the opportunity to submit written argument to the CBA, and the CBA may allow additional evidence and argument.¹²

The CBA members consider the arguments submitted, the hearing transcript, and evidence admitted at the hearing. If CBA members grant the petition, reconsideration of the case will typically occur during closed session at the next regularly scheduled CBA meeting. The Decision After Reconsideration is drafted by CBA Legal Counsel based on the CBA’s closed session discussion. The CBA may also assign a reconsideration to an Administrative Law Judge, who will issue a proposed decision for the CBA’s consideration.

The power to order a reconsideration expires 30 days after the decision is served on the licensee or on the effective date of the decision if the effective date is before the end of the 30-day period, or at the end of a stay of no more than 30 days, which the CBA may grant to allow a petition for reconsideration to be filed. If the CBA members need more time to consider a petition for reconsideration that has already been submitted, the CBA may grant a 10-day stay for the sole purpose of considering the petition. If no action is taken by the CBA within the time allowed, the petition is deemed denied by operation of law.

Table 2



¹² The Administrative Procedure Act does permit for oral argument (Government Code section 11521(b)).

Cost Recovery

In some circumstances, the CBA may recover its reasonable costs of investigation and prosecution. Cost recovery by the CBA generally occurs in two scenarios: (1) proposed decisions, and (2) stipulated settlements, with the latter being most scenarios.

Business and Professions Code section 5107 authorizes an Administrative Law Judge, upon request of the Executive Officer, to order as part of the proposed decision, the reasonable costs of investigation and prosecution of the case, including but not limited to, attorney's fees. CBA members may not make any changes to the Administrative Law Judge's determination of the reasonable costs of investigation or the costs ordered other than to decrease the amount of those costs.

The CBA's general practice is to pursue cost recovery where appropriate. All Accusations include a plea for recovery of investigation and prosecution costs. A timely response and cooperation from the licensee results in less time spent on the case, and as a result, lower costs owed by the licensee. In some instances, CBA members may reduce costs to resolve the case, without the time and expense of an administrative hearing.

The reduction in cost recovery is a business decision that is commonplace among Department of Consumer Affairs boards and bureaus. Respondents often express concern over the cost and delay the resolution process more often than any of the other standard terms. By negotiating the reduction in costs, cases often be resolved significantly faster. Quick resolution serves the CBA's goal of consumer protection by getting the Respondent into an agreement and imposing terms on his/her/its license and/or practice. Additionally, resolving the case without an administrative hearing can result in a significant cost savings to the CBA while still protecting consumers.

In cases where cost recovery is ordered by an Administrative Law Judge but not collected, the CBA requires payment of these costs as a condition of license renewal or reinstatement as authorized by Business and Professions Code sections 125.3(g) and 5107(j).

Administrative Penalties

The CBA may order licensees to pay an administrative penalty as part of a disciplinary proceeding, of up to \$5,000 for the first violation and up to \$10,000 for each subsequent violation. In addition, any licensee who violates subdivision (a), (c), (i), (j), or (k) of section 5100 of the California Accountancy Act may be assessed an administrative penalty of up to \$1,000,000 for the first violation and up to \$5,000,000 for any subsequent violation (note: the amounts for natural persons are limited to \$50,000 and \$100,000, respectively).

Disciplinary Guidelines and Model Orders

CBA's Disciplinary Guidelines and Model Orders (Disciplinary Guidelines) set forth recommended discipline for violations of CBA statutes and regulations. They list each statute and regulation in numerical order with the recommended minimum and maximum penalties and standard and optional conditions of probation.

Also included in the Disciplinary Guidelines are model disciplinary orders, language for standard and optional terms of probation, and aggravating and mitigating circumstances that should be taken into consideration in determining appropriate discipline. In addition, the Disciplinary Guidelines provide guidance on cost recovery, rehabilitation, administrative penalties, unlicensed activities, violation of probation, and injunctions.

The Disciplinary Guidelines are a valuable resource for an Administrative Law Judge in those cases that proceed to administrative hearing and for licensees and attorneys involved in settlement negotiations. However, as indicated in the title, these are guidelines. There are many circumstances that justify imposition of stronger or different penalties, just as there are circumstances that justify leniency.

The Disciplinary Guidelines have been adopted by the CBA and are incorporated by reference in CBA Regulations section 98, which states that the CBA will consider its Disciplinary Guidelines when reaching a decision in a disciplinary action and may deviate from these guidelines when the CBA determines, in its sole discretion, that deviation is warranted.

CBA MEETINGS – CLOSED SESSION

The Bagley-Keene Open Meeting Act allows boards, including the CBA, to convene in closed session to deliberate on enforcement matters. In addition to the CBA members, CBA Legal Counsel, Deputy Attorney General liaison, Enforcement Chief, and Executive Officer attend the CBA meetings and participate in certain closed session discussions.

CBA Legal Counsel

CBA Legal Counsel presents the default and proposed decisions to the CBA during closed session and provides a summary of the case and the options available for CBA members consideration. The options can vary depending on the type of case. CBA Legal Counsel also advises CBA members on procedural and legal questions regarding the disciplinary process.

Deputy Attorney General Liaison, Office of the Attorney General

The Deputy Attorney General liaison serves as a representative from the Attorney General's Office and can only be present in closed session during the consideration of stipulated settlements and current or pending litigation involving the CBA being handled by the Attorney General's Office. The Deputy Attorney General liaison advocates on behalf of the proposed stipulated settlements and can provide input or respond to questions regarding the factors relating to the proposed stipulated settlements.

Executive Officer and Enforcement Chief

The Enforcement Chief presents the proposed stipulated settlements to the CBA during closed session. The Executive Officer and Enforcement Chief can only be present in closed session and participate in the discussions during consideration of stipulated settlements and current or pending litigation involving the CBA. During these discussions, the Executive Officer and Enforcement Chief can provide input or respond to questions regarding the factors that led to a stipulated settlement.

Assistant Executive Officer

The Assistant Executive Officer is present in all closed session activities. The Assistant Executive Officer records the motion and vote and assists in the preparation of the closed session meeting minutes.

FACTORS TO CONSIDER WHEN DECIDING WHETHER TO ADOPT OR NON-ADOPT A PROPOSED DECISION

Factors CBA members may wish to consider when adopting an Administrative Law Judge's proposed decision include:

1. The summary of the evidence supports the findings of fact, and the findings support the conclusions of law.
2. The law and standards of practice are interpreted correctly.
3. The witness' credibility is crucial to the decision and the findings of fact include a determination based substantially on the witness' credibility. The determination identifies specific evidence of the observed demeanor, manner, or attitude of the witness that supports the credibility determination.
4. The penalty fits within the disciplinary guidelines or any deviation from those guidelines has been adequately explained.
5. The terms and conditions of probation, if granted, provide the necessary public protection.

Factors CBA members may wish to consider when non-adopting an Administrative Law Judge's proposed decision include:

1. The Administrative Law Judge made an error in applying the relevant standard of practice for the issues in controversy at the hearing.
2. The witness' credibility is crucial to the decision. The findings of fact include a determination based substantially on the witness' credibility, but the determination does not identify specific evidence that supports the credibility determination.
3. The Administrative Law Judge made an error in interpreting the licensing law and/or regulations.
4. The Administrative Law Judge made correct conclusions of law and properly applied the standards of practice, but the penalty is substantially less than is appropriate to protect the public.

SUGGESTIONS FOR REVIEWING “THE RECORD” AND PREPARING TO DISCUSS AND RENDER A DECISION AFTER NON-ADOPTION

When the CBA questions the factual or legal findings of the Administrative Law Judge and non-adopt a proposed decision, the following suggestions are intended to assist in reviewing the case record in an efficient and effective manner.

It is suggested CBA members read the Administrative Record in the following order:

The Accusation

- Make written notes of the code sections charged and a brief description of what they cover.
- Read the facts that are alleged to prove the code violations. The burden to prove the violations by “clear and convincing evidence to a reasonable certainty” is on the CBA.

The Proposed Decision

Factual Findings

- Did the Administrative Law Judge find the allegations were proven by clear and convincing evidence?
- Was sufficient evidence introduced to prove the allegations?
- Did the witnesses’ testimony prove the allegations?
- Did the Administrative Law Judge find some witnesses more credible than others?
- Which expert’s testimony was given the most weight by the Administrative Law Judge?
- Was any evidence of mitigation introduced by the respondent?

Pay close attention to the Administrative Law Judge’s factual findings as you will need to evaluate them when you read the transcript.

Legal Conclusions (determination of issues)

- Do the facts constitute a violation of the code section?

Order

- Does the order contain the appropriate penalty given the violations found?
- Is the order consistent with the Disciplinary Guidelines and, if not, is there a basis in the record for deviating from the guidelines?

The Transcript

Sufficiency of the Evidence

- Has “clear and convincing evidence to a reasonable certainty” been introduced to prove each factual allegation? You must be able to identify clear and convincing evidence in the record to support a finding.

Lay Witnesses

- Does witness testimony prove the facts (keep in mind the Administrative Law Judge’s credibility findings)?
- If not, what evidence supports your conclusion as to who is more credible?

Expert Witness

- Which expert's testimony was given the most weight by the Administrative Law Judge?
- If you do not agree, what evidence in the record supports your conclusion?

The CBA may order written or oral arguments or both. Below are items CBA members should consider.

Written Arguments

- The Deputy Attorney General argument will contend the facts are clearly proven and constitute a violation of the law. The burden of proof is on the CBA. Has that burden (clear and convincing evidence) been met?
- The Respondent's argument will likely focus on the weakness of the CBA's case and the strength of the Respondent's case. It will force you to answer the hard questions whether (a) the allegations were proven, (b) the law was violated, and (c) the penalty is appropriate.

Review the Proposed Decision Again

- CBA members should now have a complete picture of the case. Make notes on the proposed decision focusing on those areas of agreement and disagreement with the Administrative Law Judge as to the factual findings, the legal conclusion, and the proposed penalty.
- If there is a disagreement, note the specific evidence in the record that supports the conclusion. CBA members should also note the volume and page number of the transcript. CBA members must cite "clear and convincing evidence to a reasonable certainty" to make a finding.

Oral Arguments

- The oral arguments made by Respondent's attorney and the Deputy Attorney General typically highlight points made in the written argument.
- CBA members may ask questions to clarify matters that may be confusing. CBAs member may not ask questions that seek information that is not part of the existing record.

Summary and Conclusion

- During your review, keep in mind the code sections alleged to have been violated and the facts alleged to have occurred. If you keep this as your focus, your evaluation of all the elements of the case should make your decision much easier. This will also help your decision withstand judicial scrutiny.



CALIFORNIA BOARD OF ACCOUNTANCY

PETITION HEARINGS

Attachment 2



DISCLAIMER

The information provided in this document is for the purpose of providing a general overview of the enforcement process. It is not prepared to cover all topics or issues. Further, the document does not supersede any statutes, regulation, or case law; and if there is a conflict, statute, regulation, or case law is controlling. Further, this does not override legal advice by CBA Legal Counsel or Attorney General's Office, as each case is unique.

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THE PETITION PROCESS

Business and Professions Code section 5115 allows a licensee to seek reinstatement of his/her license (because of revocation or surrender) or a reduction of penalty (licensees on probation). A Petition for Reduction of Penalty allows the petitioning licensee to request that certain terms of probation be reduced or removed, or that probation be terminated in its entirety.

The petition process begins when a licensee (Petitioner) files a Petition for Reinstatement or a Petition for Reduction of Penalty. The Petitioner may petition the California Board of Accountancy (CBA) for reinstatement or reduction of penalty after a period of one year from the effective date of the disciplinary decision or from the date of the denial of a similar petition. However, the CBA may specify a longer waiting period (maximum of three years) in any decision revoking a license, accepting the surrender of a license, or denying reinstatement of a license.

Staff provide notice to the Attorney General's Office of the filing of the petition. Both the Attorney General's Office and Petitioner are given an opportunity to present oral or written argument before the CBA. Written arguments are typically submitted prior to the hearing itself and distributed to CBA members. The Office of Administrative Hearings is also notified of the filing so that an Administrative Law Judge and a court reporter can be assigned.

Petition hearings occur at CBA meetings, before the CBA with an Administrative Law Judge and court reporter present. The Administrative Law Judge presides at the hearings, rules on admission and exclusion of evidence, and advised CBA members on matters of law. Petition hearings must be noticed in accordance with the Bagley-Keene Open Meeting Act.

THE PETITION HEARING

At the petition hearing, the Deputy Attorney General represents the People of the State of California. The Deputy Attorney General gives a brief opening statement of the licensing history, prior discipline, information on the current petition, and presents the jurisdictional documents, including the petition, prior accusation, and prior decision and disciplinary order.

The Petitioner may have an attorney present, at his or her option and expense. The Petitioner is also offered the opportunity to give a brief opening statement.

Both parties have the right to call, examine, cross-examine, and impeach witnesses, introduce exhibits, and rebut evidence. The CBA members have the opportunity to question the Petitioner during the hearing.

Petition hearings are not required to be conducted according to the technical rules of evidence and witnesses, with some exceptions. Any relevant evidence is, "admitted if it is the sort of evidence on which responsible persons are accustomed to rely in the conduct of serious affairs."¹ Hearsay evidence may be used to supplement or explain other evidence, but if objected to prior to the submission of the case (or on reconsideration), is not in itself sufficient to support a finding unless the evidence would be admissible over objection in a civil action.²

¹ Government Code section 11513(c)

² Government Code section 11513(d)

Burden of Proof

At petition hearings, the burden of proof rests with the Petitioner. The Petition must demonstrate that it is safe for consumers for the CBA to reinstate the license or reduce the penalty. The Petitioner must meet this burden through a showing of clear and convincing evidence.³

CBA members must consider all competent evidence of rehabilitation furnished by the Petitioner. CBA Regulations section 99.1 outline the rehabilitation criteria that the CBA will consider when evaluating a petition for reinstatement. The criteria include:

- Nature and severity of the offense (though the purpose of reinstatement is not to retry the matter)
- Criminal record and subsequent acts and offenses which could be grounds for denial, suspension, or revocation of license
- The time that elapsed since the wrongful conduct occurred
- Compliance by the Petitioner with requirements of parole, probation, restitution, or other lawful sanctions
- Any criminal expungement proceedings under Penal Code section 1203.4
- Evidence of rehabilitation submitted by the Petitioner

The evidence offered by the Petitioner to demonstrate whether s/he is entitled to reinstatement should include evidence of rehabilitation. For example, what activities has the Petitioner been involved in since discipline was imposed? Evidence may include:

- A written statement from the Petitioner
- Letters or other documentation from past or current employers
- Letters or other documentation from medical personnel such as a psychiatrist addressing the likelihood of similar recurrences
- Letters of reference from professionals
- Documentation showing the Petitioner's participation in volunteer or community events
- Any documentation of continuing education related to the practice of public accountancy

After the hearing is complete, the Administrative Law Judge closes the record. CBA members will convene in closed session with the Administrative Law Judge to deliberate and render a decision on the petition. CBA Legal Counsel is also present in closed session.

ROLE OF THE CBA

BPC section 5000.1 states "protection of the public shall be the highest priority for the California Board of Accountancy in exercising its licensing, regulatory, and disciplinary functions."

CBA members may ask questions of the Petitioner at the hearing. Consider the following:

- Questions that are simple and to the point.
- Questions directed toward rehabilitation and assessment of ability to practice safely (either with or without conditions).

³ *Flanzer v. Board of Dental Examiners* (1990) 220 Cal.App.3d 1392, 1398 and *Hippard v. State Bar* (1989) 49 Cal.3d 1084, 1092.

- Questions that explore the Petitioner’s understanding of his/her misconduct/violation and how the Petitioner would handle the situation today.
- Questions that focus on evidence, including witness demeanor.

When assessing the Petitioner’s rehabilitation CBA members should:

- Evaluate facts on a case-by-case basis and in an objective manner.
- Consider any mitigating and aggravating factors.
- Be consistent and use CBA’s Disciplinary Guidelines if considering granting reinstatement with conditions (understanding these are guidelines and different facts may require different penalties or conditions).

CBA members may consider only facts contained in the administrative record. No external information from sources like Internet may be used to obtain information on the Petitioner.

While CBA members decide on the petition that day during closed session, the decision is not shared with the Petitioner until the written decision is issued. The Administrative Law Judge is responsible for drafting the decision based on the CBA members’ closed session discussion.

CBA members review the draft decision prepared by the Administrative Law Judge to determine whether the decision accurately reflects the members’ decision in the matter. Upon CBA members’ approval and signature by the CBA President, the decision will be served via mail to the Petitioner.

EXAMPLES OF PETITION HEARINGS – WEBCAST

[July 2018 CBA Meeting: Michael Stephen Mitchell – Petition of Reduction of Penalty and Termination of Probation of CPA License Number 20146](#) (hearing begins at the 2:19 hour mark of the webcast)

[May 2018 CBA Meeting: John Zilei Zhong – Petition for Reinstatement of Surrendered Certificate Number 97729](#) (hearing begins at the 2:00 hour mark of the webcast)



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CBA Item IX.A.
January 17, 2019

Licensing Activity Report

Presented by: Gina Sanchez, Chief, Licensing Division

Purpose of the Item

The purpose of this agenda item is to provide the California Board of Accountancy (CBA) with the new Licensing Activity Report (LAR) (**Attachment 1**) that was created to accurately reflect the workload, inventory, and achievements of the Licensing Program.

Consumer Protection Objectives

The Licensing Program exists to ensure that applicants for the CPA Examination and CPA licensure meet minimum educational, examination, and experience requirements prior to practicing public accountancy and providing services to consumers. Further, to regulate and ensure continued competency in the profession once a license is obtained.

Action(s) Needed

No specific action is required on this item.

Background

It is the CBA's goal to qualify applicants for the CPA Examination and licensure in a timely manner, specifically within 30 days, to enable them to begin practicing public accountancy and serving California consumers.

As reported at the November 2018 CBA meeting, staff was exploring options to improve how the data is reflected, including the inventory of applications and "real-time" processing timeframes.

Comments

Similar to the previous format, the new LAR covers statistical information and highlights for each program area in the Licensing Program providing the prior two fiscal years of data and the current fiscal year-to-date. This provides information on trends from prior years and an overall view of the workload in the current year.

Additional graphs have been added to show a comparison of the number of applications received to the number of applications approved in the Examination and Initial Licensing Units, during the same time period in previous fiscal years.

Licensing Activity Report

Page 2 of 2

Additionally, the method in which processing timeframes has also been adjusted to reflect “real-time” processing timeframes. Previously, the LAR reflected average processing timeframes of a fully completed application derived from monthly averages during a given period of time. The new LAR now provides current processing timeframes calculating the number of days from when an application is received at the CBA to the time an application has been processed.

As this is the first look of the new LAR, the contents will likely evolve and be expanded throughout 2019.

Fiscal/Economic Impact Considerations

There are no fiscal/economic impact considerations.

Recommendation

Staff do not have a recommendation on this agenda item, but welcomes any feedback CBA members may have.

Attachments

1. Licensing Division Activity Report
2. NASBA Candidate Performance Report 2018 Q2
3. NASBA Candidate Performance Report 2018 Q3



Licensing Activity Report

Gina Sanchez, Division Chief

Fiscal Year (FY) 2018/2019 July 1, 2018 – November 30, 2018

Licensing Division Highlights

Online Credit Card Payment System

The California Board of Accountancy (CBA) License Renewal Payment Portal was launched on Monday, December 10, 2018. The new online payment portal allows licensees to pay renewal fees online. Providing licensees this alternative payment method will reduce the timeframe for receiving a renewed license.

Renewal and Continuing Competency staff have revised internal processes and procedures to ensure a seamless transition to online payments and submission of renewal applications via email.

Outreach

On November 19, 2018, staff attended a student outreach luncheon hosted by the California Society of CPAs in Sacramento. Staff provided the CBA's outreach materials and discussed the examination, education, and experience requirements for CPA licensure with event attendees.

On November 30, 2018, CBA Secretary/Treasurer Nancy J. Corrigan, CPA, and staff attended an outreach event at Pasadena Community College discussing the requirements and process to sit for the Uniform CPA Examination (CPA Exam) and obtain a CPA license. Staff answered audience questions regarding the requirements and process to obtain a CPA license.

Oversight of the CPA Examination

As part of the oversight responsibility of the CPA Exam, the CBA's contract with NASBA allows CBA representatives two programs to evaluate the security measures performed by Prometric testing sites as they administer the examination.

The two programs provide an opportunity to perform an unannounced site visit of a Prometric location or pose as an examination candidate in order to observe the administration of the examination.

Staff is seeking interest from CBA and committee members to perform either type of visit in the coming months at the 22 Prometric locations throughout California. A letter will be sent to each member in February providing additional information along with a response form that identifies the type of visit and preferred location(s).

Licensing Division Snapshot

Fiscal Year 2018/19
5 months of data

25,631 Applications Received

2,657	First Time Exam
6,641	Repeat Exam
1,552	CPA License
224	Accounting Firms
14,557	Renewal

56,341 Stakeholder Inquiries

21,589 Emails

- 40% Initial Licensure
- 31% Examination
- 29% Renewal

34,752 Telephone Calls

- 39% Initial Licensure
- 34% Examination
- 27% Renewal

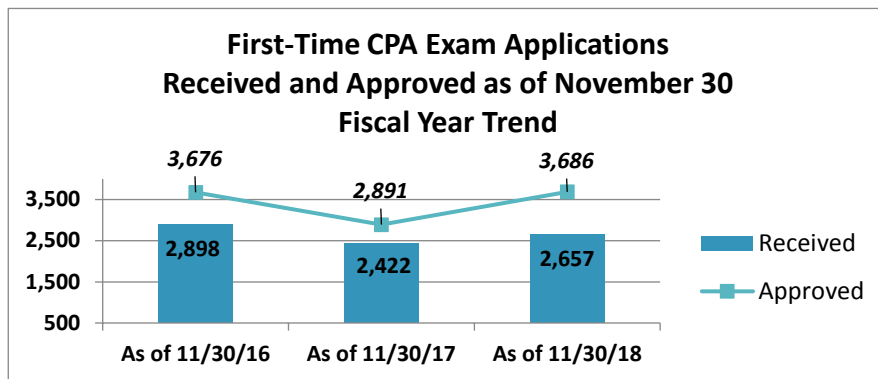
Qualifications Committee Meeting January 23, 2019

*California Board of Accountancy
2450 Venture Oaks Way
Suite 420
Sacramento, CA 95833*

Uniform CPA Examination Statistics

FY 2018/19 (5 months of data)	10,327 Approved <i>First Time Sitter 3,686</i> <i>Repeat Sitter 6,641</i>
FY 2017/18	20,568 Approved <i>-First-Time Sitter 5,573</i> <i>-Repeat Sitter 14,995</i>
FY 2016/17	26,036 Approved <i>-First-Time Sitter 7,061</i> <i>-Repeat Sitter 18,975</i>

- The Examination Unit is processing first-time sitter CPA Exam applications within 30 days of receipt. All first-time sitter CPA Exam applications that were received at the CBA in October, were reviewed and completed within 24 days or less of receipt. Processing is defined as an initial review of an application where applicants either receive an approval notification or a deficiency letter identifying any outstanding items. As of December 19, 2018, staff were processing CPA Exam applications dated December 10, 2018, within nine days of receipt.
- For the first five months of FY 2018/19, the total number of first-time applications *received* this fiscal year has increased by nine percent compared to the same time period last fiscal year, from 2,422 to 2,657.
- For the first five months of FY 2018/19, the total number of first-time applications *approved* this fiscal year has increased by 27 percent compared to the same time period last fiscal year, from 2,891 to 3,686.



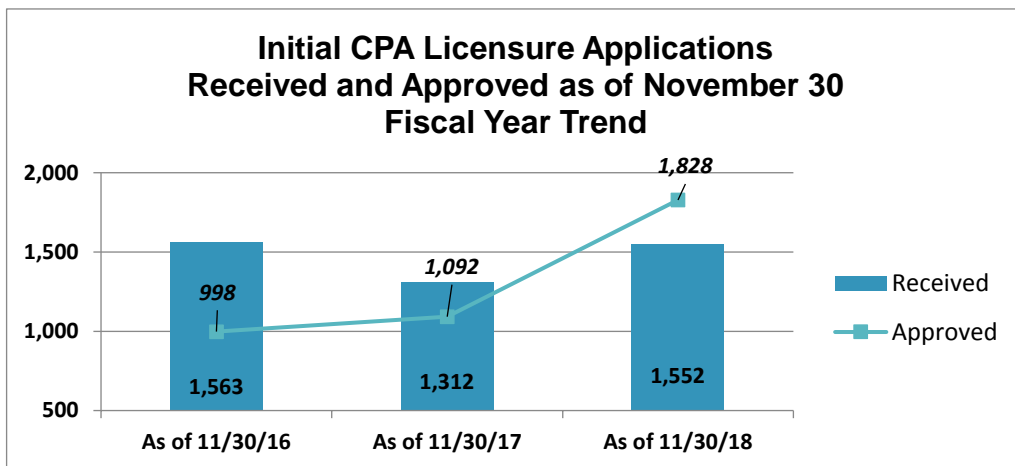
- Included in this report is the National Association of State Boards of Accountancy CPA Exam Performance Summary for the second and third testing window of 2018. There are two parts to each quarterly report: 1) a California-specific report and 2) an all jurisdiction report. (**Attachments 2 & 3**)

Initial Licensing Statistics

<p>FY 2018/19 (5 months of data)</p>	<p>Individual 1,828 Approved <i>Attest Authority 470</i> <i>General Authority 1,358</i></p> <p>Firms 195 Approved <i>Corporation 71</i> <i>Partnership 18</i> <i>Fictitious Name Permit 68</i> <i>Out of State Registrations 38</i></p>
<p>FY 2017/18</p>	<p>Individual 2,187 Approved <i>-Attest Authority 578</i> <i>-General Authority 1,609</i></p> <p>Firms 354 Approved <i>-Corporation 173</i> <i>-Partnership 48</i> <i>-Fictitious Name Permit 84</i> <i>-Out-of-State Registrations 49</i></p>
<p>FY 2016/17</p>	<p>Individual 3,339 Approved <i>-Attest Authority 954</i> <i>-General Authority 2,385</i></p> <p>Firms 418 Approved <i>-Corporation 202</i> <i>-Partnership 70</i> <i>-Fictitious Name Permit 76</i> <i>-Out-of-State Registrations 70</i></p>

Initial Licensing Statistics (cont.)

- The Initial Licensing Unit is processing initial CPA applications and Accounting Firm applications within 30 days of receipt. All initial CPA licensure applications that were received at the CBA in October were completed within 30 days or less of receipt. As of December 19, 2018, staff were processing initial CPA licensure applications dated November 26, 2018, within 23 days of receipt. Processing is defined as an initial review of an application where applicants either receive a pre-approval notification requesting the initial license fee for issuance of a license number or a deficiency letter identifying any outstanding items.
- For the first five months of FY 2018/19, the total number of CPA applications *received* during this fiscal year has increased by 18 percent compared to the same time period last fiscal year, from 1,312 to 1,552.
- For the first five months of FY 2018/19, the total number of CPA applications *approved* during this fiscal year has increased by 67 percent compared to the same time period last fiscal year, from 1,092 to 1,828.



License Renewal Statistics

FY 2018/19 (5 months of data)	16,054 Renewed <i>CPA/PA 14,558</i> <i>Accounting Firms 1,496</i>
FY 2017/18	44,943 Renewed <i>-CPA/PA 42,919</i> <i>-Accounting Firms 2,024</i>
FY 2016/17	45,374 Renewed <i>-CPA/PA 43,008</i> <i>-Accounting Firms 2,366</i>

Compliance Review	FY 2018/19 5 months of data
License Renewals Reviewed ¹	7,985
<i>Deficient Applications</i>	1,323
<i>Compliance Processed</i>	1,375
Continuing Education Audits	375
<i>Outstanding Audits</i>	204
<i>Compliance Processed</i>	171
Enforcement Referrals	412

Retired	FY 2018/19 5 months of data
Retired Status Received	183
Retired Status Approved	178

¹License expiration dates are automatically updated upon receipt of license renewal payments. CBA staff then reviews each renewal application for completeness and compliance with continuing education and peer review reporting requirements.

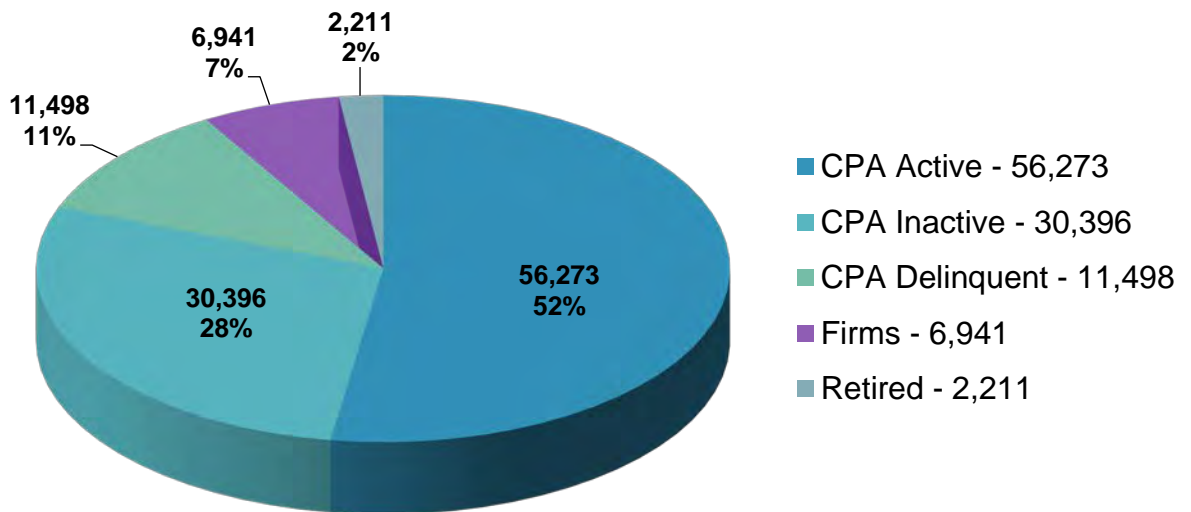
License Renewal Statistics (cont.)

- For the first five months of FY 2018/19, the CBA had 412 Enforcement Referrals. The total number of Enforcement Referrals during this fiscal year has slightly increased by nine percent compared to the same time period in FY 2017/18, from 379 to 412.

Population Statistics

Population	FY 2016/17	FY 2017/18	FY 2018/19 5 months
CPA	95,186	96,487	98,167
<i>Active</i> ²	56,577	55,747	56,273
<i>Inactive</i>	29,123	29,952	30,396
<i>Delinquent</i> ³	9,486	10,788	11,498
CPA Retired	1,613	2,051	2,211
Accountancy Firms	6,620	6,843	6,941
<i>Corporation</i>	4,536	4,665	4,743
<i>Partnership</i>	1,547	1,582	1,576
Out-of-State Firm Registration	537	596	622
Totals	103,419	105,381	107,319

**Population by License and Registration Type
as of November 30, 2018**



² Represents active CPAs and Includes Public Accountants (PA)

³ Delinquent consists of those licensees who have not submitted their renewal form and those licensees whose renewal is in process pending review by CBA staff

CPA Exam Performance Summary: 2018 Q-2 Attachment 2

California

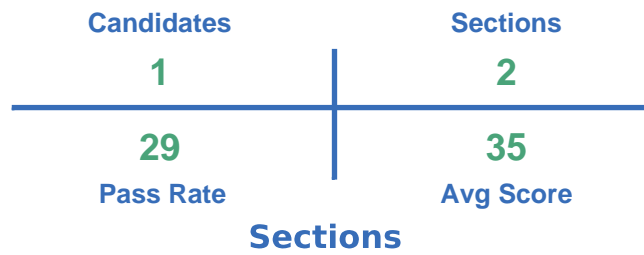
Overall Performance

Unique Candidates	5,080
New Candidates	1,056
Total Sections	6,384
Passing 4th Section	720
Sections / Candidates	1.26
Pass Rate	51.6%
Average Score	71.13

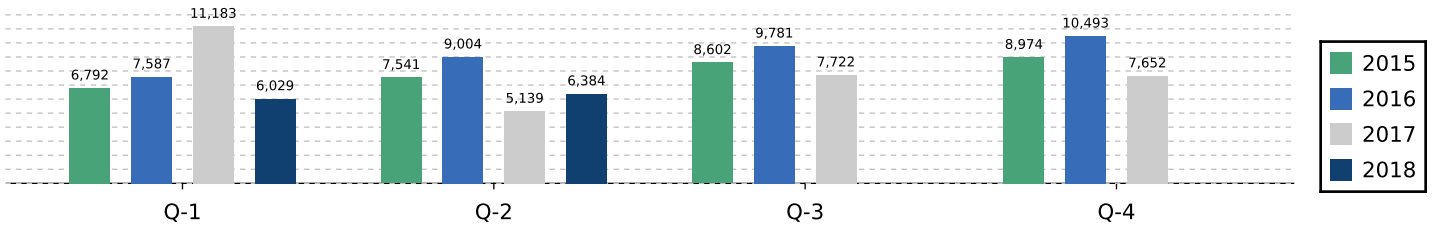
Section Performance

	Sections	Score	% Pass
First-Time	1,851	70.77	53.54%
Re-Exam	4,521	71.27	50.81%
AUD	1,646	71.62	51.7%
BEC	1,324	74.17	57.33%
FAR	1,742	68.77	46.1%
REG	1,672	70.70	52.69%

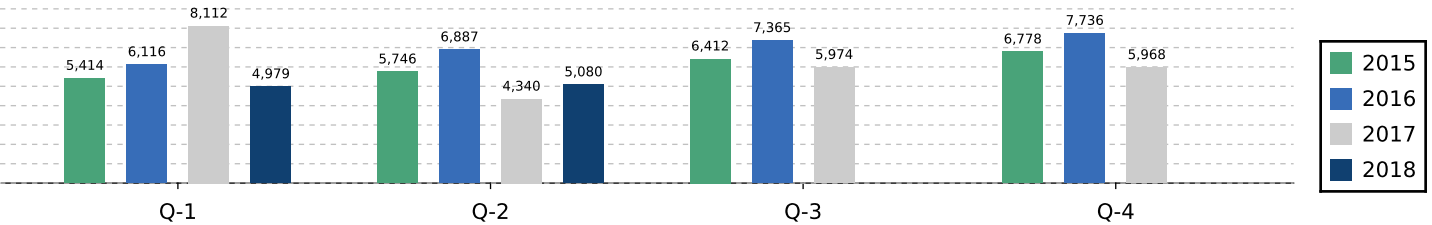
Jurisdiction Ranking



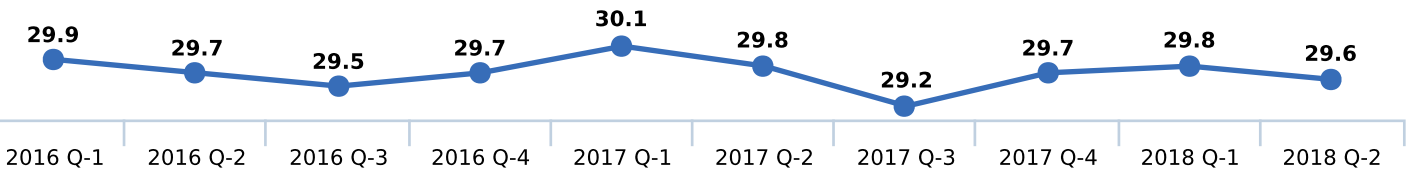
Sections



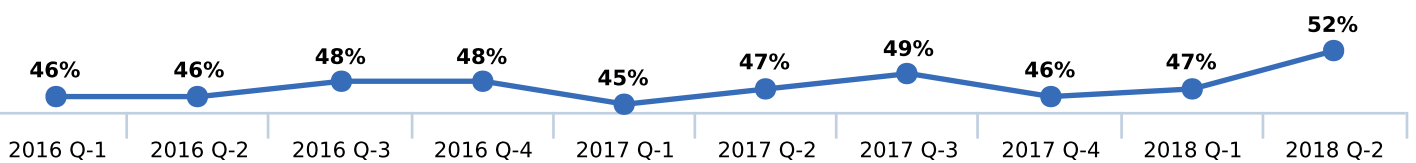
Candidates



Average Age



% Pass



CPA Exam Performance Summary: 2018 Q-2

California

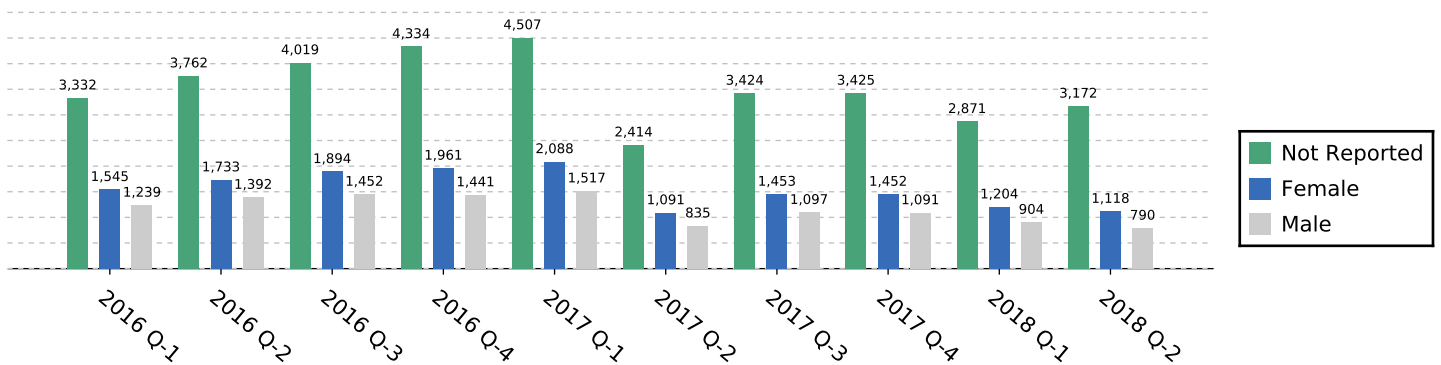
Degree Type

Bachelor's Degree	3,816	75.1%
Advanced Degree	1,159	22.8%
Enrolled / Other	105	2.1%

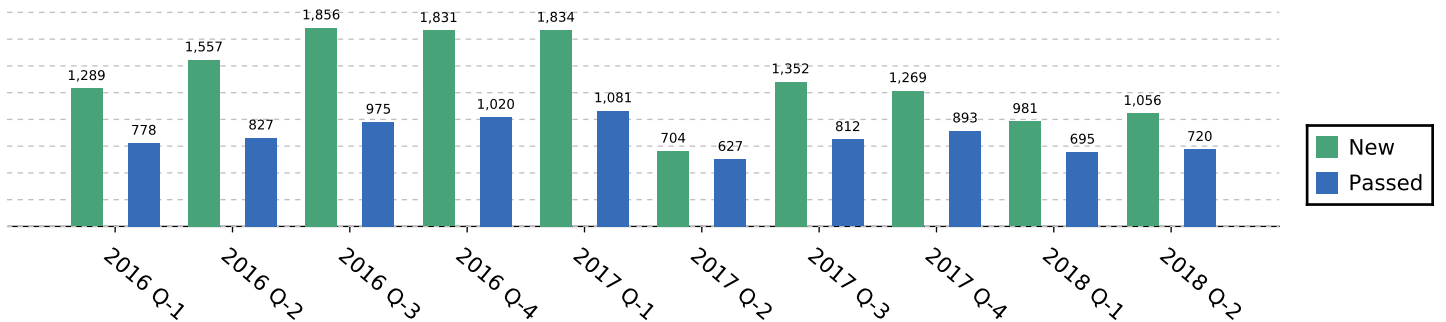
Residency

In-State Address	4,156	81.81%
Out-of-State Address	716	14.09%
Foreign Address	208	4.09%

Gender



New Candidates vs Candidates Passing 4th Section



Notes:

1. The data used to develop this report was pulled from NASBA's Gateway System, which houses the Uniform CPA Examination's Application and Performance information for all 55 jurisdictions.
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CPA Exam Performance Summary: 2018 Q-2

Overall

Overall Performance

Unique Candidates	38,183
New Candidates	8,207
Total Sections	49,453
Passing 4th Section	6,056
Sections / Candidates	1.3
Pass Rate	54.69%
Average Score	72.70

Section Performance

	Sections	Score	% Pass
First-Time	12,629	72.78	58.57%
Re-Exam	36,739	72.67	53.37%
AUD	13,637	72.84	54.73%
BEC	10,074	76.11	60.33%
FAR	12,954	70.04	49.20%
REG	12,788	72.56	55.75%

Most Candidates

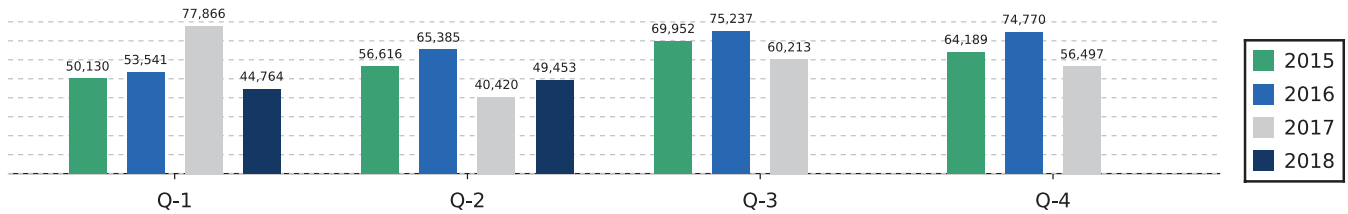
1. California	5,080
2. New York	4,907
3. Texas	2,988

Top 3 Jurisdictions

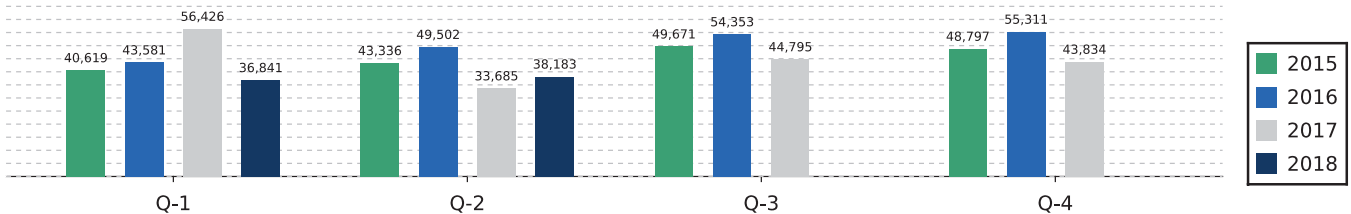
1. Utah	69.04%
2. Wyoming	65.79%
3. Wisconsin	65.31%

Highest Pass Rate

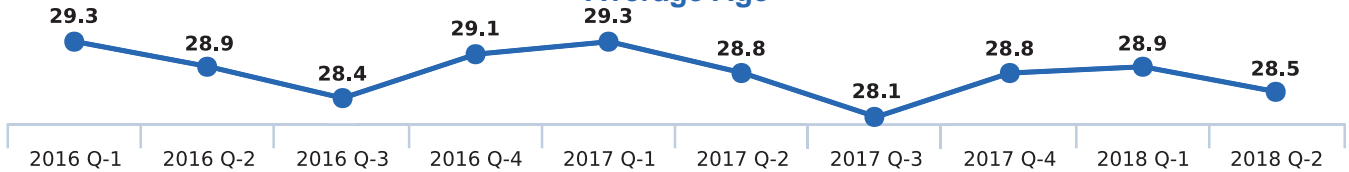
Sections



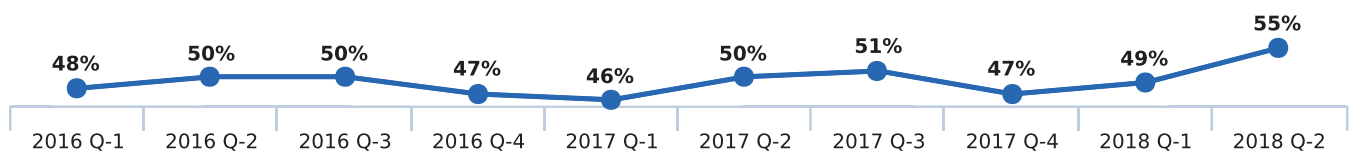
Candidates



Average Age



% Pass



CPA Exam Performance Summary: 2018 Q-2

Overall

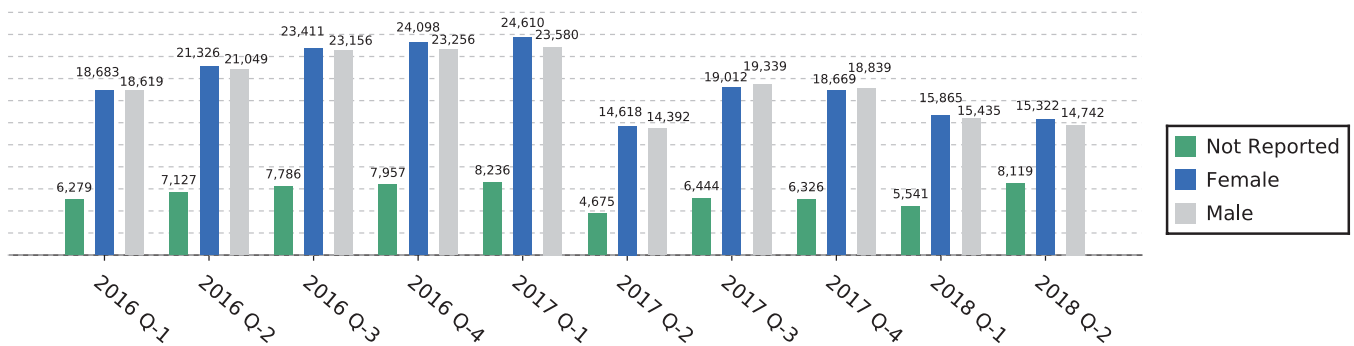
Degree Type

Bachelor's Degree	26,648	69.8%
Advanced Degree	7,400	19.4%
Enrolled / Other	4,135	10.8%

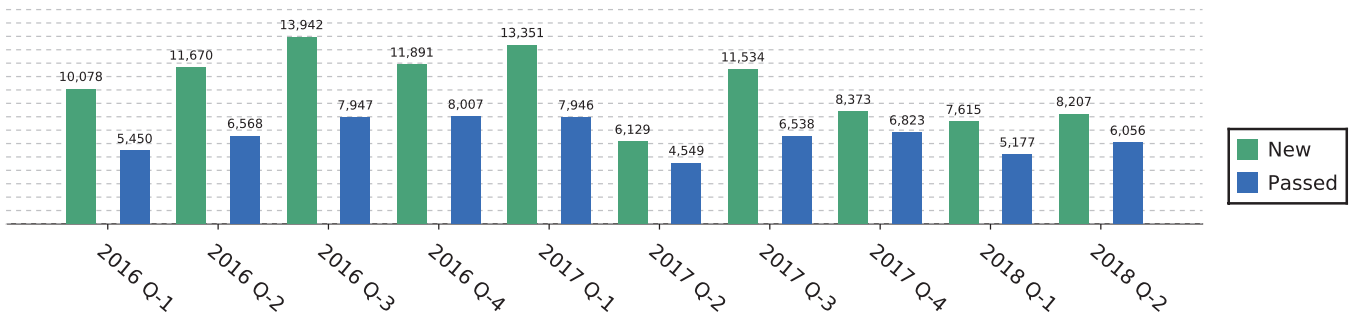
Residency

In-State Address	28,340	74.22%
Out-of-State Address	6,518	17.07%
Foreign Address	3,325	8.71%

Gender



New Candidates vs Candidates Passing 4th Section



Notes:

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CPA Exam Performance Summary: 2018 Q-3 Attachment 3

California

Overall Performance

Unique Candidates	5,426
New Candidates	1,218
Total Sections	7,057
Passing 4th Section	798
Sections / Candidates	1.3
Pass Rate	50.69%
Average Score	70.89

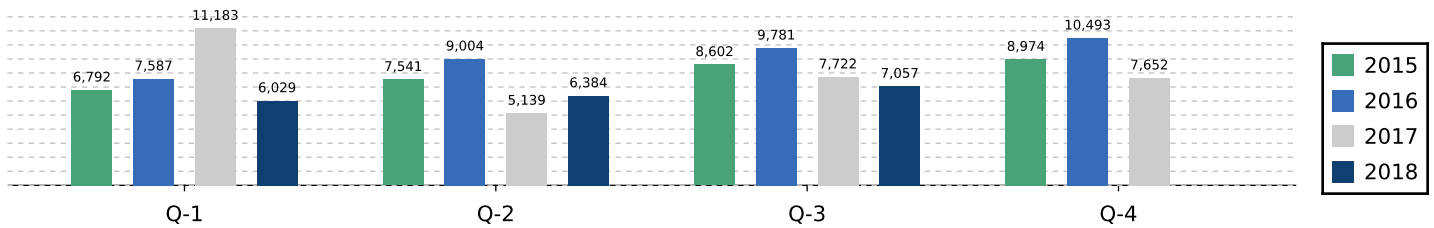
Section Performance

	Sections	Score	% Pass
First-Time	2,181	71.68	56.3%
Re-Exam	4,852	70.55	48.27%
AUD	1,750	70.64	49.26%
BEC	1,410	74.12	55.67%
FAR	2,029	68.10	44.11%
REG	1,868	71.70	55.41%

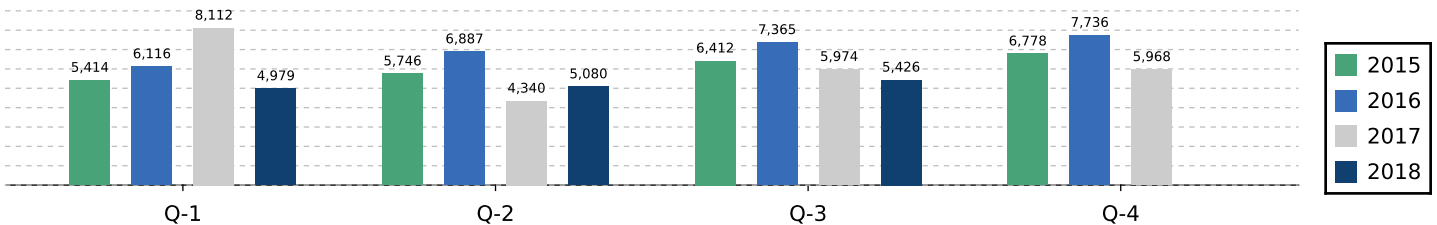
Jurisdiction Ranking

Candidates	1	Sections	1
Pass Rate	41	Avg Score	42

Sections



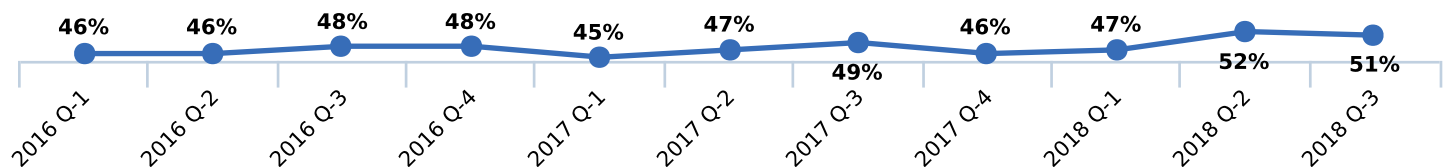
Candidates



Average Age



% Pass



CPA Exam Performance Summary: 2018 Q-3

California

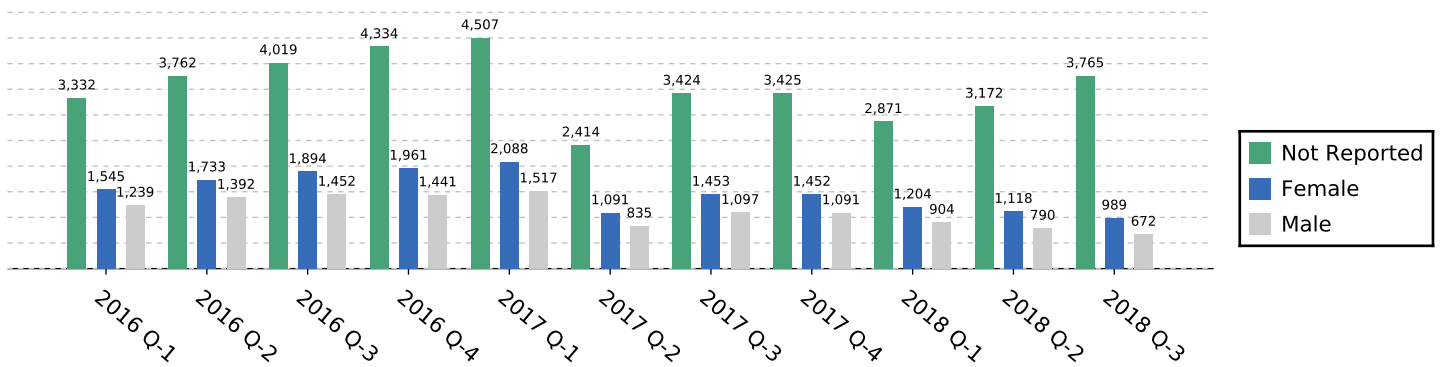
Degree Type

Bachelor's Degree	4,108	75.7%
Advanced Degree	1,228	22.6%
Enrolled / Other	90	1.7%

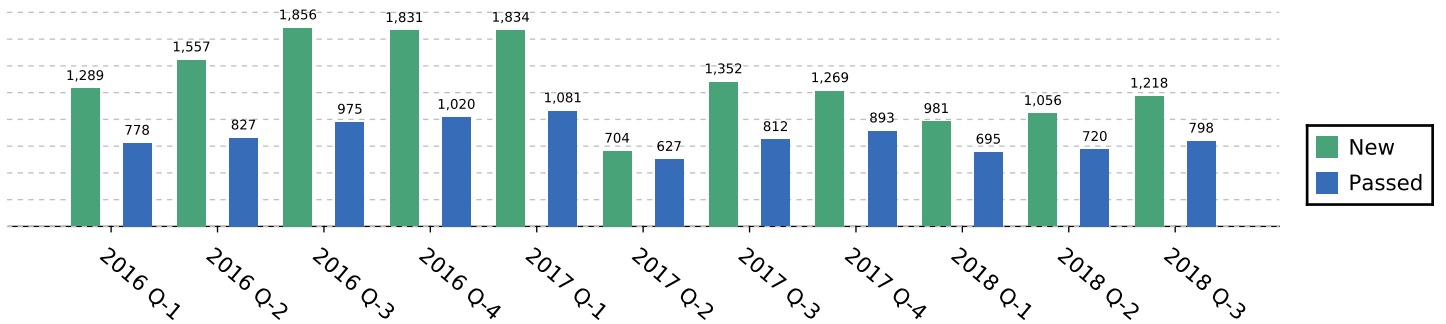
Residency

In-State Address	4,523	83.36%
Out-of-State Address	696	12.83%
Foreign Address	207	3.81%

Gender



New Candidates vs Candidates Passing 4th Section



Notes:

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CPA Exam Performance Summary: 2018 Q-3

Overall

Overall Performance

Unique Candidates	41,934
New Candidates	10,552
Total Sections	56,759
Passing 4th Section	6,774
Sections / Candidates	1.35
Pass Rate	53.79%
Average Score	72.47

Section Performance

	Sections	Score	% Pass
First-Time	17,543	73.41	59.33%
Re-Exam	39,094	72.07	51.34%
AUD	13,894	71.87	51.12%
BEC	10,879	76.08	60.27%
FAR	16,254	70.33	49.05%
REG	15,732	72.74	56.57%

Most Candidates

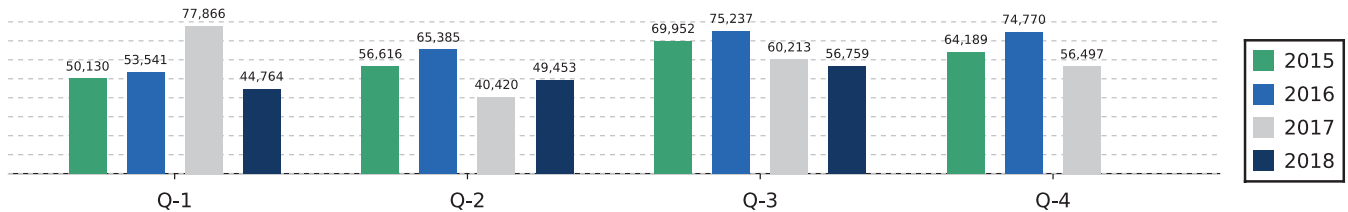
1. California	5,426
2. New York	5,101
3. Texas	3,217

Top 3 Jurisdictions

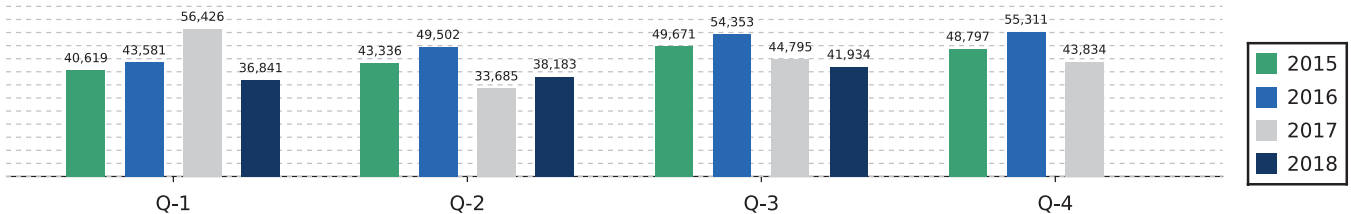
1. Utah	68.23%
2. Wisconsin	64.48%
3. Oregon	63.55%

Highest Pass Rate

Sections



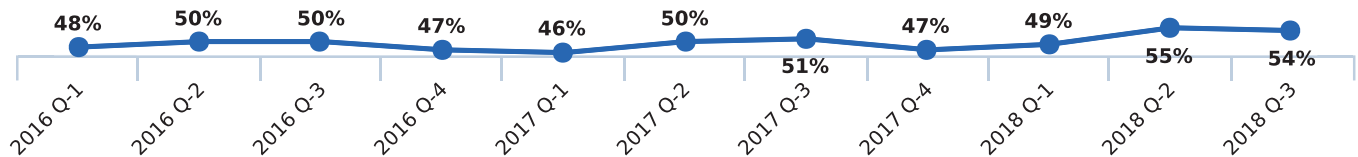
Candidates



Average Age



% Pass



CPA Exam Performance Summary: 2018 Q-3

Overall

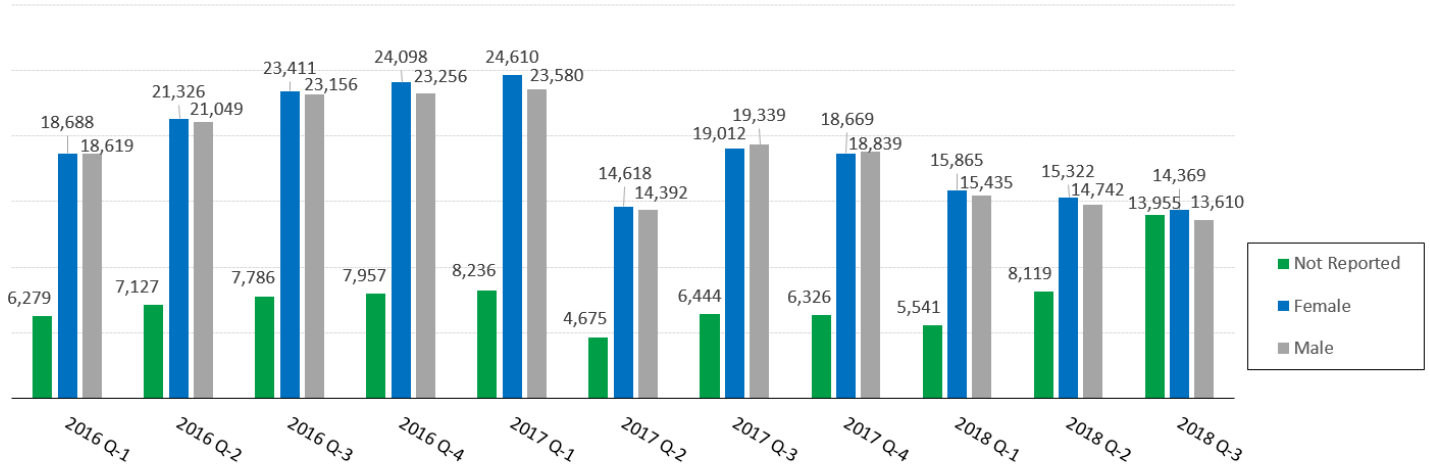
Degree Type

Bachelor's Degree	29,398	70.1%
Advanced Degree	8,106	19.3%
Enrolled / Other	4,430	10.6%

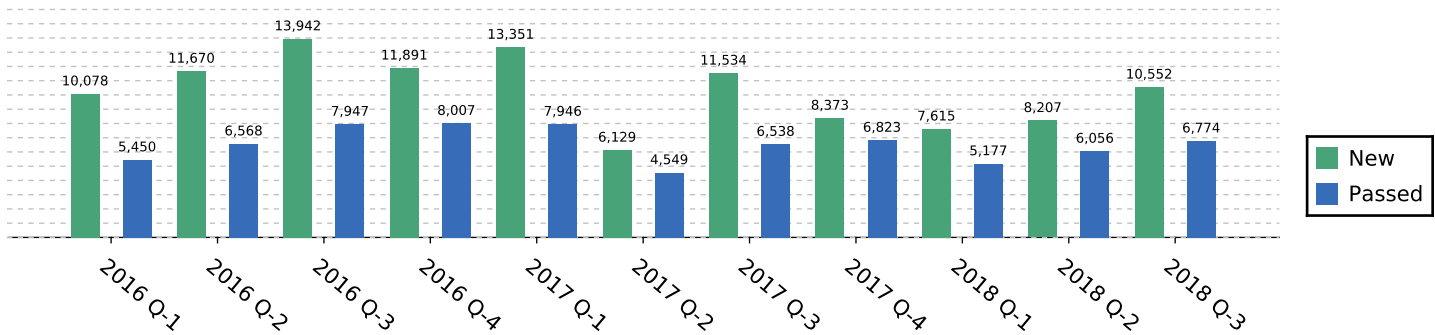
Residency

In-State Address	31,481	75.07%
Out-of-State Address	6,973	16.63%
Foreign Address	3,480	8.3%

Gender



New Candidates vs Candidates Passing 4th Section



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EPOC Item II.
January 17, 2019

CBA Item X.A.2.
January 17, 2019

Discussion and Possible Action Regarding Proposed Changes to Title 16, California Code of Regulations Section 98, Disciplinary Guidelines and Model Orders; Section 99, Substantial Relationship Criteria; and Section 99.1, Rehabilitation Criteria for Denials, Suspensions, Revocations, Restorations, Reduction of Penalty

Presented by: Dominic Franzella, Chief, Enforcement Division

Purpose of the Item

The purpose of this agenda item is to present to the California Board of Accountancy (CBA) for its consideration proposed modifications to:

- CBA Disciplinary Guidelines and Model Orders (Guidelines) (**Attachment 1**)
- CBA Regulations section 98 – Disciplinary Guidelines (**Attachment 2**)
- CBA Regulations section 99 – Substantial Relationship Criteria (**Attachment 3**)
- CBA Regulations section 99.1 – Rehabilitation Criteria (**Attachment 4**)

Consumer Protection Objectives

The Guidelines set forth recommended discipline for violations of the current statutes and regulations. Ensuring that the Guidelines are regularly updated, both regarding the recommended minimum and maximum penalties and the current statutes and regulations, along with Substantial Relationship Criteria (CBA Regulations section 99) and identified Rehabilitation Criteria (CBA Regulations section 99.1), is paramount to ensuring that the CBA meets its mission of consumer protection.

Action(s) Needed

The CBA is being asked to approve the proposed revisions to the Guidelines and CBA Regulations sections 98, 99, and 99.1 for a future rulemaking, including any edits or additions as needed.

Background

At its January 2017 meeting, the CBA approved regulatory text in the Guidelines and CBA Regulations sections 98 and 99.1 and authorized the Executive Officer to initiate the rulemaking process.

Staff was working with the Department of Consumer Affairs (DCA) on completing necessary rulemaking materials for submission of the file to the Office of Administrative

Discussion and Possible Action Regarding Review of Proposed Changes to Title 16, California Code of Regulations Section 98, Disciplinary Guidelines and Model Orders; Section 99, Substantial Relationship Criteria; and Section 99.1, Rehabilitation Criteria for Denials, Suspensions, Revocations, Restorations, Reduction of Penalty

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Law to initiate the formal rulemaking process. During the 2018 legislative year, however, the Legislature passed Assembly Bill (AB) 2138 (Chiu, Chapter 995) (**Attachment 5**). AB 2138 recast how DCA boards/bureaus evaluate applications for initial licensure, especially related to weighing past criminal convictions. AB 2138 takes effect July 1, 2020.

Comments

Given that the legislative amendments impact the Guidelines and substantial relationship criteria and rehabilitation criteria prior to moving forward with the rulemaking on the Guidelines, staff are incorporating necessary changes for AB 2138. Additionally, staff have taken the opportunity to review whether the CBA should consider additional changes.

All changes originally adopted by the CBA as part of its adoption in 2017 are noted in single underline and strikethrough. All changes resulting from AB 2138 and staff's recent review of the Guidelines and substantial relationship criteria and rehabilitation criteria are noted in double underline and strikethrough.

Substantial Relationship Criteria

Historically, Business and Professions Code (BPC) section 481 has required a DCA board to develop criteria to aid it, when considering the denial, suspension, or revocation of a license, to determine whether a crime is substantially related to the qualifications, functions, or duties of the business or profession it regulates.

AB 2138 will require, beginning July 1, 2020, that criteria used by a DCA board in determining substantial relationship shall include:

- The nature and gravity of the offense
- The number of years elapsed since the date of the offense
- The nature and the duties of the profession which the applicant seeks licensure or in which the licensee is licensed

The CBA has maintained substantial relationship criteria since the 1970s – CBA Regulations section 99. To comply with the requirements of AB 2138, staff have incorporated the above items into CBA Regulations section 99.

In addition to the required changes from AB 2138, staff are proposing an additional change to the criteria as follows: “Crimes that reflect a lack of sound professional or personal judgment relevant to the practice of public accountancy, regardless of whether harm has occurred to a consumer.”

Discussion and Possible Action Regarding Review of Proposed Changes to Title 16, California Code of Regulations Section 98, Disciplinary Guidelines and Model Orders; Section 99, Substantial Relationship Criteria; and Section 99.1, Rehabilitation Criteria for Denials, Suspensions, Revocations, Restorations, Reduction of Penalty

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Staff propose this additional criterion to aid in transparency, which is consistent with one of the intents of AB 2138. Further, this criterion is consistent with how California courts have evaluated crimes and substantial relationship over the years. In adding this criterion, the CBA would provide applicants and licensees with increased information on how the CBA evaluates criminal convictions.

Rehabilitation Criteria

Like the substantial relationship criteria, historically, BPC section 482, has required a DCA board to develop criteria to evaluate the rehabilitation of a person when considering the denial, suspension, or revocation of a license. BPC section 482 required that a board consider all competent evidence of the rehabilitation furnished by the applicant or licensee.

While AB 2138 continues to require a DCA board to develop rehabilitation criteria, it has recast how the CBA consider the criteria. Specifically, beginning July 1, 2020, BPC section 482 requires a DCA board consider whether an applicant or licensee has made a showing of rehabilitation if either of the following are met:

- The applicant or licensee has completed the criminal sentence at issue without a violation of parole or probation
- A board, applying its criteria for rehabilitation, finds that the applicant is rehabilitated

The CBA has maintained rehabilitation criteria since the 1970s – CBA Regulations section 99.1 (which is also replicated in the Guidelines). As part of its prior review, the CBA expanded the rehabilitation criteria. In addition, as part of the update to the Guidelines, the CBA developed a new section titled Rehabilitation Evidence to further aid in assisting individuals demonstrating rehabilitation.

While the CBA's existing rehabilitation criteria includes a reference to successful completion of a criminal sentence, to ensure conformity AB 2138, staff have incorporated the exact text from AB 2138.

Additional Changes

Staff have taken the opportunity to review whether the CBA should consider additional changes. Staff are proposing the following additional changes to the Guidelines:

- Add Ethics Continuing Education (page 71, newly numbered 26) and Regulatory Review Course (page 72, newly numbered 27) to the list of Standard Conditions of Probation
- Make Samples – Audit, Review, or Compilation (page 76, number 38) required when Peer Review (page 74, newly numbered 34) is used

Discussion and Possible Action Regarding Review of Proposed Changes to Title 16, California Code of Regulations Section 98, Disciplinary Guidelines and Model Orders; Section 99, Substantial Relationship Criteria; and Section 99.1, Rehabilitation Criteria for Denials, Suspensions, Revocations, Restorations, Reduction of Penalty

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Presently, the Ethics Continuing Education is an Optional Condition of Probation; however, it is included in nearly every probationary order that the CBA ordered over the past five or more years. Ethics courses are required to cover business ethics and how nationally recognized codes of conduct relate to a licensee's professional responsibilities. The courses serve as an appropriate refresher for licensees who have been disciplined for violating the CBA's rules and regulations.

Presently, the Regulatory Review Course is an Optional Condition of Probation; however, it is included in nearly every probationary order that the CBA ordered over the past five or more years. A Regulatory Review Course must be CBA-approved and provides information on the provisions of the current Accountancy Act and CBA Regulations. This course gives the recently disciplined licensee a better understanding of the current rules and regulations.

Licensees who have Peer Review as a condition of probation could represent a high risk for substandard audit, review, and compilation engagement work product. Requiring the Samples condition provides the CBA the ability to monitor this work as the licensee is required to submit a listing of all audit, review, or compilation engagements with their quarterly probation reports to the CBA.

Next Steps

As the impacts of AB 2138 stretch across all DCA, in late October 2018, DCA developed a project plan for implementation, with a primary focus on rulemaking activities. To meet the July 1, 2020 implementation date for AB 2138, DCA has requested that boards/bureaus submit their respective rulemaking packages to DCA by May 1, 2019.

To meet this target, the CBA will have the January and March 2019 meetings to finalize the regulatory text. This will allow staff time to complete the necessary rulemaking materials and submit them to DCA by May 1, 2019.

Staff were informed that DCA is in the process of creating model regulatory language as a template for boards to consider related to the substantial relationship criteria and rehabilitation criteria. This model is under review; however, staff have requested DCA provide the regulatory language as soon as practicable. Upon receipt from DCA, staff will evaluate and provide an update to the CBA.

Additionally, AB 2138 included language that requires select DCA boards/bureaus, of which the CBA is included, to develop and adopt regulations that allow it to deny an application for licensure if the "individual was convicted of a financial crime currently

Discussion and Possible Action Regarding Review of Proposed Changes to Title 16, California Code of Regulations Section 98, Disciplinary Guidelines and Model Orders; Section 99, Substantial Relationship Criteria; and Section 99.1, Rehabilitation Criteria for Denials, Suspensions, Revocations, Restorations, Reduction of Penalty

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classified as a felony that is directly and adversely related to the fiduciary qualifications, functions, or duties of the business or profession for which the application is made.”¹

As amended, the financial criminal convictions require an element that relate a fiduciary responsibility. This would severely limit the CBA’s ability to deny an applicant for licensure with a past conviction of a financial crime.

Further, AB 2138 established a new term “directly and adversely” as the relationship test. Historically and, for that matter, throughout the rest of the amendments brought about by AB 2138, the term of “substantially related” is used as the relationship test. During the early stages of the legislative session, AB 2138 did replace the term “substantial relationship” with “directly and adversely;” however, as the bill was amended the relationship test was returned to “substantial relationship.”

As part of the CBA 2018 Sunset Review Report, the CBA identified this in its New Issues section. The CBA noted that while there are instances where the duties of CPAs or individuals include a fiduciary responsibility, many of the functions and duties a CPA performs for a client or an employer do not have a fiduciary component.

The CBA included a request and legislative proposal to allow the CBA to consider the denial of an application for CPA licensure if the applicant was convicted of a financial crime that is substantially related to the qualifications, functions, or duties of the CPA profession (**Attachment 6**).

Although the CBA has requested the Legislature amend this recently enacted provision, there are no guarantees that that the Legislature will pass the proposal. Therefore, the CBA must still take steps to develop regulatory language as required by AB 2138.

Given that this carve-out impacts other DCA boards/bureaus, and at the request of the CBA, DCA has convened a working group of the other impacted boards/bureaus to develop language. This working group is set to meet in early January. Staff will provide an update on the groups progress at the January 2019 meeting and provide any proposed language for the CBA review at the March 2019 meeting.

At the March 2019 meeting, staff will request that the CBA direct staff to initiate the rulemaking process, including submitting the rulemaking file to DCA.

¹ The other DCA boards/bureaus are: Professional Fiduciaries Bureau, Contractors’ State License Board, Bureau of Security and Investigative Services, Cemetery and Funeral Bureau, and Department of Real Estate.

Discussion and Possible Action Regarding Review of Proposed Changes to Title 16, California Code of Regulations Section 98, Disciplinary Guidelines and Model Orders; Section 99, Substantial Relationship Criteria; and Section 99.1, Rehabilitation Criteria for Denials, Suspensions, Revocations, Restorations, Reduction of Penalty

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Fiscal/Economic Impact Considerations

There is no fiscal or economic impact to updating the Guidelines and CBA Regulations sections 98, 99, and 99.1.

Recommendation

Staff recommend the CBA approve the proposed changes to the Guidelines and CBA Regulations sections 98, 99, and 99.1 for a future rulemaking, including any edits or additions members may have.

Attachments

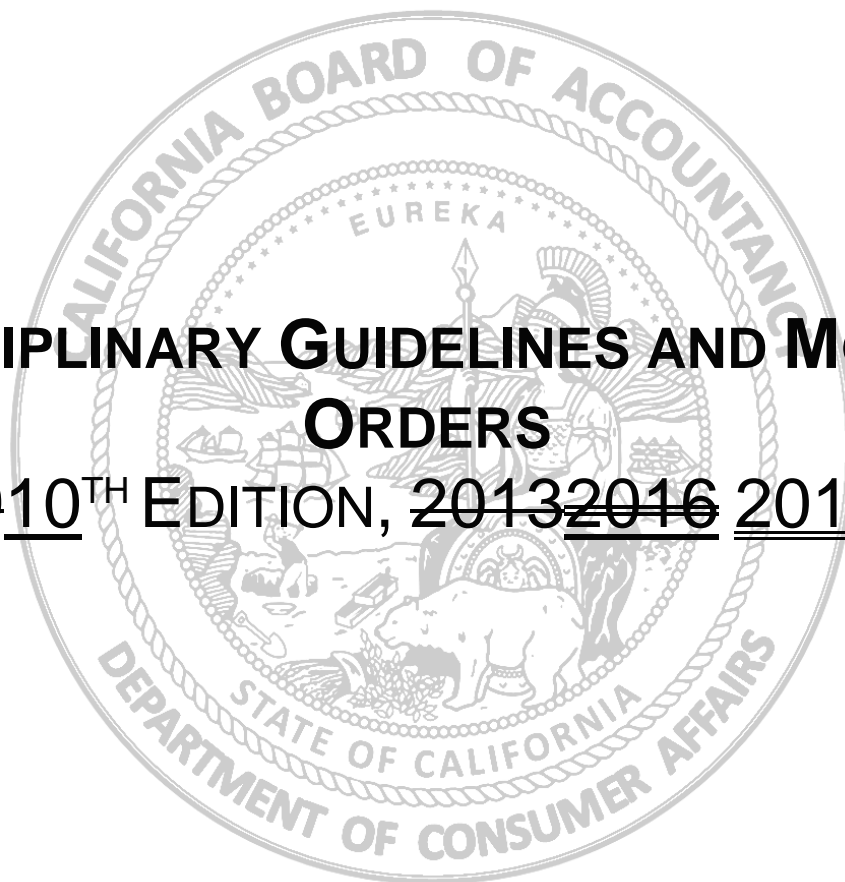
1. Draft California Board of Accountancy Disciplinary Guidelines and Model Orders, 10th Edition, 2019
2. CBA Regulations Section 98
3. CBA Regulations Section 99
4. CBA Regulations Section 99.1
5. Assembly Bill 2138
6. CBA Proposed Legislative Changes – Business and Professions Code section 480 and 5100.1

CALIFORNIA BOARD OF ACCOUNTANCY

DRAFT

DISCIPLINARY GUIDELINES AND MODEL ORDERS

910TH EDITION, 2013~~2016~~ 2019



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~~DISCIPLINARY GUIDELINES~~ **AND** **~~MODEL ORDERS~~**

I. INTRODUCTION

The California Board of Accountancy (CBA) ~~licenses~~regulates the practice of public accountancy in the State of California and may revoke, suspend, or refuse to renew any permit or certificate for violation of applicable statutes or regulations. The CBA examines applicants, sets education requirements, and may deny licensure and the authority to practice under practice privilege (California Business and Professions Code (BPC) section 5096 et seq.). The CBA may, by regulation, prescribe, amend, or repeal rules of professional conduct appropriate to the establishment and maintenance of a high standard of integrity and competency in the profession.

The CBA, through its Enforcement Division, assisted by its statutorily established Enforcement Advisory Committee, receives and investigates complaints; initiates and conducts investigations or hearings, with or without the filing of a complaint; and obtains information and evidence relating to any matter involving the conduct of Certified Public Accountants (CPA), Public Accountants (PA) and Accountancy Firms. The California Accountancy Act and the CBA regulations provide the basis for CBA disciplinary action. (See BPC sections 5000 et seq., and Title 16 of the California Code of Regulations (CCR) sections 1 through 99.1.)

The expiration, cancellation, forfeiture, or suspension of a license, practice privilege, or other authority to practice public accountancy in California, or the voluntary surrender of a license by a licensee shall not deprive the CBA of the authority to proceed with an investigation, action, or disciplinary proceeding against the licensee or to render a decision suspending or revoking the license. (See BPC section 5109.)

These disciplinary guidelines, designed for the use of Administrative Law ~~(ALJ)~~ Judges (ALJ), attorneys, CBA licensees, and others involved in the CBA's disciplinary process, are revised from time to time. The guidelines cover model orders, including factors to be considered in aggravation and mitigation; standard probationary terms; and guidelines for specific offenses. The guidelines for specific offenses ~~are referenced to~~ the statutory and regulatory provisions violated.

These disciplinary guidelines set forth recommended discipline for the violation of current statutes and regulations; ~~includes~~ a provision for community service; and ~~provides~~ additional guidance regarding disciplinary and model orders.

The CBA recognizes that these recommended penalties and conditions of probation are merely guidelines and that mitigating or aggravating circumstances and other factors may necessitate deviations, as discussed herein.

II. GENERAL CONSIDERATIONS

The CBA requests that **Proposed Decisions** following administrative hearings include the following:

- a. Specific code sections violated with their definitions.
- b. Clear description of the violation.
- c. Respondent's explanation of the violation if he or she is present at the hearing.
- d. Findings regarding aggravation, mitigation, and rehabilitation where appropriate. (See factors set forth ~~below~~ in CCR section 99.1, under section V. Rehabilitation Criteria).
- e. When suspension or probation is recommended, the CBA requests that the disciplinary order include terms within the recommended guidelines for that offense unless the reason for departure there from is clearly set forth in the findings and supported by the evidence.

If the ~~respondent~~ Respondent fails to appear for the scheduled hearing, such action shall result in a **default decision** to revoke license.

When the CBA, at a **reinstatement hearing**, denies a petitioner's request for reinstatement, the CBA requests that the ~~Administrative Law Judge~~ ALJ provide technical assistance in formulating language clearly setting forth the reasons for denial. Such a **statement** should include, for example, a statement on rehabilitation, including suggestions for further approaches by petitioner to demonstrate rehabilitation, where appropriate. ~~The Petition for Reinstatement Checklist was designed to assist the CBA members and an ALJ with the preparation of a petition for reinstatement. See Attachment 1 for additional information.~~

- f. **Reimbursement** to the CBA for costs of investigation and prosecution as warranted by BPC section 5107.
- g. Imposition of an **Administrative Penalty** if warranted. See section ~~VI~~ VII for guidance.

The CBA will consider **stipulated settlements** to promote cost effectiveness and to expedite disciplinary decisions if such agreements achieve its disciplinary objectives. Deputy Attorneys General should inquire as to ~~respondent's~~ Respondent's interest in stipulated settlement promptly after receipt of a notice of defense. If stipulated settlement appears unlikely, the case should be set for hearing.

The CBA's policy is that all disciplinary actions will be published.

It is also the CBA's policy that matters resolved by stipulation include **cost recovery**.

The CBA's Executive Officer is authorized by statute to request an ~~Administrative Law Judge~~ ALJ, as part of any proposed decision in a disciplinary proceeding, to order the recovery of reasonable costs of investigation and prosecution (~~California Business and Professions Code~~ BPC section 5107). This statute does not preclude the CBA from seeking recovery of costs through stipulations; thus, it does not change the CBA's policy of requesting and recovering costs where appropriate in stipulated settlements. Restitution to victims and/or administrative penalties should not be reasons to reduce, eliminate, or stay full recovery of all reasonable costs of investigation and prosecution.

In stipulated decisions involving **revocation** (no revocation stayed), the order will generally include the requirement that ~~respondent~~ Respondent must reimburse the CBA for all reasonable costs of investigation and prosecution prior to or upon reinstatement of ~~respondent's~~ Respondent's revoked certificate under BPC section 5115.

The period of **probation** is generally three years. During the probation period, licensees are required to appear in person at interviews/meetings as directed by the CBA or its designated representatives to report on probation compliance.

Where an actual **suspension** is imposed, the order shall include the requirement that ~~respondent~~ Respondent engage in no activities for which certification is required (see model disciplinary orders) during the period of suspension. In addition, the ~~respondent~~ Respondent shall relinquish the certificate in question to the CBA and, if directed to do so by the CBA, shall notify clients regarding the suspended status of the certificate, ~~if directed to do so by the CBA~~.

When discipline includes a violation that can be corrected, **correction of the violation** should be included as the basis for any discipline.

Restitution should be considered for all cases in which harm is demonstrated against the complainant. However, restitution should consider the actual harm to a complainant; it is not intended to award damages.

III. EVIDENCE IN AGGRAVATION OF PENALTY

The following are among aggravating circumstances to be considered by ALJs in providing for penalties in proposed decisions:

1. Evidence that the violation was knowingly committed and/or was premeditated.
2. Licensee has a history of prior discipline, particularly where the prior discipline is for the same or similar type of conduct.
3. Licensee's actions resulted in financial damage to his or her clients or other consumers. The amount of loss may be an additional aggravating factor.
4. Violation of CBA probation.
5. Failure to comply with a final citation order.
6. Failure to comply with a notice to appear before the CBA or its designated representatives.
7. Failure to comply with continuing education requirements as ordered by the CBA or its designated representatives pursuant to CCR section 87.5.
8. Evidence that the licensee has not cooperated with the CBA's investigation.
9. Misappropriation of entrusted funds or other breach of fiduciary responsibility.
10. Duration of violation(s).
11. Evidence that the licensee knew or should have known that his or her actions could harm his or her clients or other consumers.
12. Evidence that the licensee took advantage of his or her client for personal gain, especially if the licensee was able to take advantage due to the ignorance, age, or lack of sophistication of the client.

IV. EVIDENCE IN MITIGATION OF PENALTY

The following are among mitigating circumstances that may be taken into account by ALJs in providing for penalties in proposed decisions:

1. The licensee has cooperated with the CBA's investigation, other law enforcement or regulatory agencies, and/or the injured parties.
2. The passage of considerable time since an act of professional misconduct occurred with no evidence of recurrence or evidence of any other professional misconduct.
3. Convincing proof of rehabilitation, including the factors in CCR section 99.1 as well as other relevant considerations.
4. Demonstration of remorse by the licensee.
5. Recognition by licensee of his or her wrongdoing and demonstration of corrective action to prevent recurrence.
6. Violation was corrected without monetary losses to consumers and/or restitution was made in full.
7. If violation involved multiple licensees, the relative degree of culpability of the subject licensee should be considered.

V. REHABILITATION CRITERIA

When considering the denial of a certificate or permit or the restoration of a revoked certificate or reduction of penalty, the burden of proof lies with the individual to demonstrate sufficient competent evidence of rehabilitation to establish fitness to perform public accounting services in a manner consistent with professional standards and public protection.

The CBA's rehabilitation criteria, set forth in CCR section 99.1, are as follows:

When considering the denial of a certificate or permit under BPC section 480, the suspension or revocation of a certificate or permit under BPC section 5100, or the restoration of a revoked certificate or reduction of penalty under BPC section 5115, the CBA, in evaluating the rehabilitation of the applicant or licensee and his or her present eligibility for a certificate or permit or reduction of penalty, will consider the following criteria:

1. Nature and ~~severity~~ gravity of the act(s) or offense(s).
2. Nature and extent of actual and potential consumer harm.
3. The respondent's attitude toward his or her commission of the violations.
4. The applicant or licensee's ~~r~~Recognition of wrongdoing.
5. The applicant or licensee's history of violations.
6. Nature and extent to which the applicant or licensee has taken corrective action to ensure the violation will not recur.
7. Nature and extent of restitution to consumers harmed by violations.
8. Other aggravating or mitigating factors.
- 2 9. Criminal record and evidence of any act(s) committed subsequent to the act(s) or offense(s) under consideration that could also be considered as grounds for denial, suspension, or revocation.
- 3 10. ~~The time that has elapsed since commission of the act(s) or offense(s)~~ number of years elapsed since the date of the offense referred to in subdivision (1) or (2).
- 4 11. ~~The applicant or licensee extent to which the licensee has completed the criminal sentence at issue without a violation of parole or probation. The extent to which the respondent applicant or licensee has complied with any terms of parole, probation, restitution, or any other sanctions lawfully imposed against the applicant or respondent licensee.~~

- 5 12. If applicable, evidence of having obtained a certificate of rehabilitation under Chapter 3.5 (commencing with Section 4852.01) of Title 6 of Part 3 of the Penal Code, or having been granted clemency or a pardon by a state or federal executive.
- 6 13. If applicable, evidence of expungement proceedings pursuant to sections 1203.4, 1203.4a, 1203.41, or 1203.42 of the Penal Code, or evidence of comparable dismissal or expungement.
14. If applicable, evidence that the applicant or licensee suffered an arrest that resulted in a disposition other than a conviction.
15. Evidence, if any, of rehabilitation submitted by the applicant or respondent licensee.
16. The nature and duties of the accounting profession.
17. The CBA, applying its criteria for rehabilitation, finds that the applicant is rehabilitated.

VI. REHABILITATION EVIDENCE

The following are examples of types of evidence which the licensee/applicant (Respondent) may submit to CBA demonstrate his or her rehabilitative efforts and competency:

- a. Letter from Respondent describing underlying circumstances of arrest and conviction record as well as any rehabilitation efforts or changes in life since that time to prevent future problems.
- b. Recent, dated written statements or performance evaluations from past and/or current employers or persons in positions of authority who have on-the-job knowledge of the Respondent's current competence in the practice of public accountancy, including the period of time and capacity in which the person worked with the Respondent.
- c. Recent, dated letters or a current mental status examination by a clinical psychologist or psychiatrist regarding the Respondent's participation in a rehabilitation, therapy or recovery program, which should include a diagnosis of the condition or any impairment, current state of recovery, and the psychologist's or psychiatrist's basis for determining rehabilitation. The evaluation should also address the likelihood of similar acts occurring in the future, and should speak to the Respondent's mental capacity ~~competency~~ and ability to practice public accountancy safely.
- d. Letters of reference from other knowledgeable professionals, such as probation or parole officers regarding the Respondent's participation in and/or compliance with terms and conditions of probation or parole, which should include at least a description of the terms and conditions of probation or parole, and the officer's basis for determining compliance.
- e. Recent, dated letters from outside individuals describing Respondent's community or volunteer participation in civic activities or support groups (e.g., Alcoholics Anonymous, Narcotics Anonymous, other professional or community based-support groups).
- f. Documentary or other evidence showing continuing education related to the practice of public accountancy.
- g. Documentary or other evidence showing enrollment in or completion of an advanced degree program. In instances where an individual is petitioning for the reinstatement of a revoked certificate or reduction of penalty, the enrollment in or completion of an advanced degree program should have occurred after the effective date of the disciplinary order.

The CBA will evaluate the sufficiency of the evidence submitted on a case-by-case basis. Any evidence submitted to the CBA will be subject to verification by CBA staff.

VII. ADMINISTRATIVE PENALTIES

BPC section 5116 et seq. allows the CBA to order any licensee or applicant for licensure or examination to pay an administrative penalty as part of any disciplinary proceeding. In matters that go through the administrative hearing process, the CBA's Executive Officer may request an ~~Administrative Law Judge~~ ALJ to impose an administrative penalty as part of any proposed decision.

The administrative penalty assessed shall be in addition to any other penalties or sanctions imposed on the licensee or other person, including but not limited to, license revocation, license suspension, denial of the application for licensure, or denial of admission to the licensing examination. When probation is ordered, an administrative penalty may be included as a condition of probation.

For any violation, with the exception of violation of subdivisions (a), (c), (i), (j), or (k) of BPC section 5100, any licensee may be assessed an administrative penalty of not more than \$5,000 for the first violation and not more than \$10,000 for each subsequent violation.

For violation of subdivisions (a), (c), (i), (j), or (k) of BPC section 5100, licensed firms may be assessed an administrative penalty of not more than \$1,000,000 for the first violation and not more than \$5,000,000 for any subsequent violation. The administrative penalty that may be assessed an individual licensee who violates these sections is limited to not more than \$50,000 for the first violation and not more than \$100,000 for any subsequent violation.

Administrative penalties may be assessed under one or more violations; however, the total administrative penalty shall not exceed the amount of the highest administrative penalty allowed.

The term "violation" used in BPC sections 5116.1, 5116.2, and 5116.3 is intended to include the total violations in the disciplinary proceeding. Accordingly, "first violation" refers to the ~~respondent's~~ Respondent's first disciplinary action and "subsequent violations" refers to any subsequent disciplinary actions.

Cost recovery ordered under BPC section 5107 should not be a reason to reduce or eliminate the amount of administrative fines.

The following criteria should be considered in assessing administrative penalties.

1. Nature and extent of actual and potential consumer harm.
2. Nature and extent of actual and potential harm to clients.
3. Nature and severity of the violation.
4. The role of the person in the violation.

5. The person's attitude toward his or her commission of the violations.
6. Recognition of wrongdoing.
7. Person's history of violations.
8. Nature and extent of cooperation with the CBA's investigation.
9. The person's ability to pay the administrative penalty.
10. The level of administrative penalty necessary to deter future violations.
11. Nature and extent to which the person has taken corrective action to ensure the violation will not recur.
12. Nature and extent of restitution to consumers harmed by violations.
13. The violations involve sanctions by other government agencies or other regulatory licensing bodies, i.e. Internal Revenue Service, Securities and Exchange Commission, and Public Company Accounting Oversight Board.
14. Other aggravating or mitigating factors.

VIII. DISCIPLINARY GUIDELINES

The offenses and penalties are listed chronologically by statute number in the Business and Professions Code (BPC) and by regulation number in Title 16 of the California Code of Regulations (CCR). The number in brackets following each condition of probation refers to the model disciplinary order so numbered (See **Disciplinary Model Orders**). The probation terms listed under "if warranted" for each violation are to be considered, and imposed, if facts and circumstances warrant.

CALIFORNIA ACCOUNTANCY ACT: BUSINESS AND PROFESSIONS CODE, DIVISION 3, CHAPTER 1

ARTICLE 2

Section 5037(a) OWNERSHIP OF ACCOUNTANTS' WORKPAPERS

Minimum Penalty – Continuing Education Courses [36]

Maximum Penalty – Revocation stayed, ~~[1, 2, 4]~~ 3 years probation [1, 2, 4]

CONDITIONS OF PROBATION:

Required: 1. Standard Conditions of Probation [~~1516-2425~~27]

If warranted:

1. Suspension [3] with/without stay [4]
2. Supervised Practice [~~2526~~28]
3. Probation Monitoring Costs [~~2728~~30]
4. Restricted Practice [~~2829~~31]
- ~~5. Ethics Continuing Education [3132]~~
- ~~6. Regulatory Review Course [3233]~~
7. Continuing Education Courses [36]
8. Administrative Penalty not to exceed maximum set forth in BPC section 5116 [43]

(Reference CCR ~~Section~~section 54.1)

Section 5037(b)(1)(2) RETURN OF CLIENT DOCUMENTS

Minimum Penalty – Continuing Education Courses [36]

Maximum Penalty – Revocation [1, 2]

CONDITIONS OF PROBATION:

Required:

1. If revocation stayed [4], 3 years probation
2. Standard Conditions of Probation [~~1516-2425~~27]

If warranted:

1. Suspension [3] with/without stay [4]
2. Supervised Practice [~~2526~~28]
3. Restitution [~~2627~~29]
4. Probation Monitoring Costs [~~2728~~30]
5. Restricted Practice [~~2829~~31]

- ~~6.~~ Engagement Letters [~~2930~~32]
- ~~7.~~ Ethics Continuing Education [~~3132~~]
- ~~8.~~ Regulatory Review Course [~~3233~~]
- ~~97.~~ Continuing Education Courses [36]
- ~~108.~~ Community Service – Free Services [40]
- ~~119.~~ Administrative Penalty not to exceed maximum set forth in BPC section 5116 [43]
- ~~1210.~~ Conditions as appropriate relating to physical or mental disability or condition [44-49]

(Reference CCR Sectionsection 68)

ARTICLE 3

**Section 5050(a) PRACTICE WITHOUT PERMIT;
TEMPORARY PRACTICE**

Except as provided for in sections 5050(c), 5054, and 5096.12, this section applies to a ~~respondent~~Respondent who practices for a time without a valid license to practice or to ~~respondent~~Respondent who practices without obtaining a practice privilege.

Minimum Penalty – Continuing Education Courses [36]

Maximum Penalty – Revocation [1, 2]

CONDITIONS OF PROBATION:

- Required:
- 1. If revocation stayed [4], 3 years probation
 - 2. Standard Conditions of Probation [~~1516-2425~~27]

- If warranted:
- 1. Suspension [3] with/without stay [4]
 - 2. Probation Monitoring Costs [~~2728~~30]
 - 3. Restricted Practice [~~2829~~31]
 - ~~4.~~ Ethics Continuing Education [~~3132~~]
 - ~~5.~~ Regulatory Review Course [~~3133~~]
 - ~~64.~~ Continuing Education Courses [36]
 - ~~75.~~ Active License Status [37]
 - ~~86.~~ Administrative Penalty not to exceed maximum set forth in BPC section 5116 [43]

**Section 5050(c) PRACTICE WITHOUT PERMIT;
TEMPORARY PRACTICE; FOREIGN ACCOUNTANTS**

Applies to ~~respondents~~Respondents licensed in a foreign country who are temporarily practicing in California and hold out as California licensees.

Minimum Penalty – Cease and Desist Letter

Maximum Penalty – Refer to Prosecutorial Agency for Unlicensed Practice

(See Reference section on Unlicensed Activities.)

Section 5055 **TITLE OF CERTIFIED PUBLIC ACCOUNTANT/
Section 5056** **TITLE OF PUBLIC ACCOUNTANT**

(Applies to ~~respondent~~ Respondent who assumes or uses the title certified public accountant, CPA, public accountant, or PA without having an appropriate permit to practice.)

Minimum Penalty – Continuing Education Courses [36]

Maximum Penalty – Revocation [1, 2]

CONDITIONS OF PROBATION:

Required: 1. If revocation stayed [4], 3 years probation
 2. Standard Conditions of Probation [~~1516-2425~~27]

If warranted: 1. Suspension [3] with/without stay [4]
 2. Probation Monitoring Costs [~~2728~~30]
 3. Restricted Practice [~~2829~~31]
 ~~4. Ethics Continuing Education [3132]~~
 ~~5. Regulatory Review Course [3233]~~
 6. Continuing Education Courses [36]
 7. Active License Status [37]
 8. Administrative Penalty not to exceed maximum set forth in
 BPC section 5116 [43]

Section 5058 **USE OF CONFUSING TITLES OR DESIGNATIONS PROHIBITED**

Minimum Penalty – Continuing Education Courses [36]

Maximum Penalty – Revocation stayed, 3 Years Probation, with actual suspension [1-4]

CONDITIONS OF PROBATION:

Required: 1. Standard Conditions of Probation [~~1516-2425~~27]

If warranted: 1. Suspension [3] with/without stay [4]
 2. Probation Monitoring Costs [~~2728~~30]
 3. Restricted Practice [~~2829~~31]
 ~~4. Ethics Continuing Education [3132]~~
 ~~5. Regulatory Review Course [3233]~~
 6. Continuing Education Courses [36]
 7. Administrative Penalty not to exceed maximum set forth in
 BPC section 5116 [43]

(Reference CCR ~~Section~~section 2)

Section 5058.1 **TITLES IN CONJUNCTION WITH
CERTIFIED PUBLIC ACCOUNTANT OR PUBLIC ACCOUNTANT**

Minimum Penalty – Continuing Education Courses [36]

Maximum Penalty – Revocation stayed, 3 Years Probation, with actual suspension [1-4]

CONDITIONS OF PROBATION:

Required: 1. Standard Conditions of Probation [~~1516-2425~~27]

If warranted: 1. Suspension [3] with/without stay [4]
2. Probation Monitoring Costs [~~2728~~30]
3. Restricted Practice [~~2829~~31]
~~4. Ethics Continuing Education [3132]~~
~~5. Regulatory Review Course [3233]~~
6. Continuing Education Courses [36]
~~7~~5. Administrative Penalty not to exceed maximum set forth in
BPC section 5116 [43]

Section 5058.2 INACTIVE DESIGNATION

Minimum Penalty – Continuing Education Courses [36]

Maximum Penalty – Revocation stayed, 3 years probation [1, 2, 4]

CONDITIONS OF PROBATION:

Required: 1. Standard Conditions of Probation [~~1516-2425~~27]

If warranted: 1. Probation Monitoring Costs [~~2728~~30]
2. Continuing Education Courses [36]
3. Administrative Penalty not to exceed maximum set forth in
BPC section 5116 [43]

Section 5058.3 RETIRED DESIGNATION

Minimum Penalty – Continuing Education Courses [36]

Maximum Penalty – Revocation stayed, 3 years probation [1, 2, 4]

CONDITIONS OF PROBATION:

Required: 1. Standard Conditions of Probation [~~1516-2425~~27]

If warranted: 1. Probation Monitoring Costs [~~2728~~30]
2. Continuing Education Courses [36]
3. Administrative Penalty not to exceed maximum set forth in BPC section
5116 [43]

ARTICLE 3.5

Section 5060 NAME OF FIRM

Minimum Penalty – Continuing Education Courses [36] for licensee, licensee partners,
licensee directors, shareholders, and/or officers of corporation

Maximum Penalty – Revocation stayed, 3 Years Probation, with actual suspension [1-4]

CONDITIONS OF PROBATION:

Required: 1. Standard Conditions of Probation [~~1516-2425~~27]

If warranted: 1. Suspension [3] with/without stay [4]
2. Probation Monitoring Costs [~~2728~~30]
3. Restricted Practice [~~2829~~31]
~~4. Ethics Continuing Education [3132]~~
~~5. Regulatory Review Course [3233]~~
6. Continuing Education Courses [36]
~~7. Administrative Penalty not to exceed maximum set forth in BPC section 5116 [43]~~

(Reference ~~BPC Section~~section 5072)

Section 5061 COMMISSIONS

Minimum Penalty – Continuing Education Courses [36]

Maximum Penalty – Revocation [1, 2]

CONDITIONS OF PROBATION:

Required: 1. If revocation stayed [4], 3 years probation
2. Standard Conditions of Probation [~~1516-2425~~27]

If warranted: 1. Suspension [3] with/without stay [4]
2. Supervised Practice [~~2526~~28]
3. Restitution [~~2627~~29]
4. Probation Monitoring Costs [~~2728~~30]
5. Restricted Practice [~~2829~~31]
6. Engagement Letters [~~2930~~32]
~~7. Ethics Continuing Education [32]~~
~~8. Regulatory Review Course [3233]~~
9. Continuing Education Courses [36]
~~10. Community Service – Free Services [40]~~
~~11. Administrative Penalty not to exceed maximum set forth in BPC section 5116 [43]~~

Section 5062 REPORT CONFORMING TO PROFESSIONAL STANDARDS

Minimum Penalty – Continuing Education Courses [36]

Maximum Penalty – Revocation [1, 2]

CONDITIONS OF PROBATION:

Required: 1. If revocation stayed [4], 3 years probation
2. Standard Conditions of Probation [~~1516-2425~~27]
3. Continuing Education Courses [36]

If warranted: 1. Suspension [3] with/without stay [4]
2. Supervised Practice [~~2526~~28]
3. Restitution [~~2627~~29]

- 4. Probation Monitoring Costs [~~2728~~30]
- 5. Restricted Practice [~~2829~~31]
- 6. Engagement Letters [~~2930~~32]
- ~~7. Ethics Continuing Education [3132]~~
- ~~8. Regulatory Review Course [3233]~~
- ~~9~~7. Peer Review [3334]
- ~~10~~8. CPA Exam [3435]
- ~~11~~9. Samples – Audits, Review or Compilation [38]
- ~~12~~10. Community Service – Free Services [40]
- ~~13~~11. Notice to Clients [42]
- ~~14~~12. Administrative Penalty not to exceed maximum set forth in BPC section 5116 [43]

(Reference BPC Section ~~section~~ 5100(j))

Section 5062.2 RESTRICTIONS ON ACCEPTING EMPLOYMENT WITH AN AUDIT CLIENT

Minimum Penalty – Revocation stayed, 30 day suspension, 3 years probation [1-4]
 Maximum Penalty – Revocation [1, 2]

CONDITIONS OF PROBATION:

- Required:
- 1. If revocation stayed [4], probation of 3 to 5 years
 - 2. Suspension [3]
 - 3. Standard Conditions of Probation [~~1516-2425~~27]

- If warranted:
- 1. Probation Monitoring Costs [~~2728~~30]
 - ~~2. Ethics Continuing Education [3132]~~
 - 3. Regulatory Review Course [3233]
 - ~~4~~2. Community Service – Free Services [40]
 - ~~5~~3. Administrative Penalty not to exceed maximum set forth in BPC section 5116 [43]

Section 5063 REPORTABLE EVENTS

Minimum Penalty – Continuing Education Courses [36]
 Maximum Penalty – Revocation [1, 2]

CONDITIONS OF PROBATION:

- Required:
- 1. If revocation stayed [4], 3 years probation
 - 2. Standard Conditions of Probation [~~1516-2425~~27]

- If warranted:
- 1. Suspension [3] with/without stay [4]
 - 2. Supervised Practice [~~2526~~28]
 - 3. Probation Monitoring Costs [~~2728~~30]
 - 4. Restricted Practice [~~2829~~31]
 - ~~5. Ethics Continuing Education [3132]~~

- ~~6. Regulatory Review Course [3233]~~
- ~~75. Continuing Education Courses [36]~~
- ~~86. Samples – Audit, Review or Compilation [38]~~
- ~~97. Prohibition from Handling Funds [39]~~
- ~~108. Community Service – Free Services [40]~~
- ~~119. Administrative Penalty not to exceed maximum set forth in BPC section 5116 [43]~~
- ~~1210. Conditions as appropriate relating to physical or mental disability or condition [44-49]~~

(Reference CCR Sectionsections 59, 60, 61)

Section 5063.3 CONFIDENTIAL INFORMATION DISCLOSURE

Minimum Penalty – Continuing Education Courses [36]
 Maximum Penalty – Revocation [1, 2]

CONDITIONS OF PROBATION:

- Required:
- 1. If revocation stayed [4], 3 years probation
 - 2. Standard Conditions of Probation [~~1516-2425~~27]

- If warranted:
- 1. Suspension [3] with/without stay [4]
 - 2. Supervised Practice [~~2526~~28]
 - 3. Probation Monitoring Costs [~~2728~~30]
 - 4. Restricted Practice [~~2829~~31]
 - ~~5. Ethics Continuing Education [3132]~~
 - ~~6. Regulatory Review Course [3233]~~
 - ~~75. Continuing Education Courses [36]~~
 - ~~86. Samples – Audit, Review or Compilation [38]~~
 - ~~97. Probation Prohibition from Handling Funds [39]~~
 - ~~108. Community Service – Free Services [40]~~
 - ~~119. Notice to Clients [42]~~
 - ~~1210. Administrative Penalty not to exceed maximum set forth in BPC section 5116 [43]~~

ARTICLE 4

Section 5070.1(b) PRACTICE WITH A RETIRED LICENSE STATUS

Minimum Penalty – Continuing Education Courses [36]
 Maximum Penalty – Revocation [1, 2]

CONDITIONS OF PROBATION:

- Required:
- 1. If revocation stayed [4], 3 years probation
 - 2. Standard Conditions of Probation [~~1516-2425~~27]

- If warranted:
- 1. Suspension [3] with/without stay [4]
 - 2. Probation Monitoring Costs [~~2728~~30]

- 3. Restricted Practice [~~2829~~31]
- ~~4. Ethics Continuing Education [3132]~~
- ~~5. Regulatory Review Course [3233]~~
- ~~64.~~ Continuing Education Courses [36]
- ~~75.~~ Active License Status [37]
- ~~86.~~ Administrative Penalty not to exceed maximum set forth in BPC section 5116 [43]

Section 5071.2(b) PRACTICE WITH A MILITARY LICENSE STATUS

Minimum Penalty – Continuing Education Courses [36]

Maximum Penalty – Revocation [1, 2]

CONDITIONS OF PROBATION:

- Required:
- 1. If revocation stayed [4], 3 years probation
 - 2. Standard Conditions of Probation [~~1516-2425~~27]

- If warranted:
- 1. Suspension [3] with/without stay [4]
 - 2. Probation Monitoring Costs [~~2728~~30]
 - 3. Restricted Practice [~~2829~~31]
 - ~~4. Ethics Continuing Education [3132]~~
 - ~~5. Regulatory Review Course [3233]~~
 - ~~64.~~ Continuing Education Courses [36]
 - ~~75.~~ Active License Status [37]
 - ~~86.~~ Administrative Penalty not to exceed maximum set forth in BPC section 5116 [43]

Section 5072(a) REQUIREMENTS FOR REGISTRATION AS A PARTNERSHIP

Applies to licensee(s) in a partnership who practices for a time without partnership license (BPC section 5073) and subsequently renews, or to a partnership in practice without a license.

Minimum Penalty – Continuing Education Courses for Licensee Partners [36]

Maximum Penalty – Revocation of partnership/individual licenses [1, 2]

CONDITIONS OF PROBATION:

- Required:
- 1. If revocation stayed [4], 3 years probation
 - 2. Standard Conditions of Probation [~~1516-2425~~27]

- If warranted:
- 1. Suspension [3] with/without stay [4]
 - 2. Probation Monitoring Costs [~~2728~~30]
 - 3. Restricted Practice [~~2829~~31]
 - ~~4. Ethics Continuing Education [3132]~~
 - ~~5. Regulatory Review Course [3233]~~
 - ~~64.~~ Continuing Education Courses [36]
 - ~~75.~~ Administrative Penalty not to exceed maximum set forth in BPC section 5116 [43]

(See Reference section on Unlicensed Activities.)

**Section 5073(d) PARTNERSHIP APPLICATIONS
(ADMISSION OR WITHDRAWAL OF PARTNER)**

Minimum Penalty – Continuing Education Courses for Licensee Partners [36]

Maximum Penalty – Revocation [1, 2]

CONDITIONS OF PROBATION:

Required: 1. If revocation stayed [4], 3 years probation
2. Standard Conditions of Probation [~~1516-2425~~27]

If warranted: 1. Probation Monitoring Costs [~~2728~~30]
~~2. Ethics Continuing Education [3132]~~
~~3. Regulatory Review Course [3233]~~
4. Administrative Penalty not to exceed maximum set forth in
BPC section 5116 [43]

Section 5076(a) PEER REVIEW

Minimum Penalty – Continuing Education Courses [36]

Maximum Penalty – Revocation [1, 2]

CONDITIONS OF PROBATION:

Required: 1. If revocation stayed [4], 3 years probation
2. Standard Conditions of Probation [~~1516-2425~~27]

If warranted: 1. Suspension [3] with/without stay [4]
2. Supervised Practice [~~2526~~28]
3. Probation Monitoring Costs [~~2728~~30]
4. Restricted Practice [~~2829~~31]
~~5. Ethics Continuing Education [3132]~~
~~6. Regulatory Review Course [3233]~~
7. Peer Review [3334]
8. Continuing Education Courses [36]
9. Samples – Audit, Review or Compilation [38]
10. Notification to Clients/Cessation of Practice [42]
11. Administrative Penalty not to exceed maximum set forth in
BPC section 5116 [43]

(Reference CCR Sectionsections 40, 32, 43)

Section 5076(f) PEER REVIEW – DOCUMENT SUBMISSION REQUIREMENT

Minimum Penalty – Continuing Education Courses [36]

Maximum Penalty – Revocation [1, 2]

CONDITIONS OF PROBATION:

- Required:
1. If revocation stayed [4], 3 years probation
 2. Standard Conditions of Probation [~~1516-2425~~27]

- If warranted:
1. Suspension [3] with/without stay [4]
 2. Supervised Practice [~~2526~~28]
 3. Probation Monitoring Costs [~~2728~~30]
 4. Restricted Practice [~~2829~~31]
 - ~~5. Ethics Continuing Education [3132]~~
 - ~~6. Regulatory Review Course [3233]~~
 - ~~7~~5. Peer Review [3334]
 - ~~8~~6. Continuing Education Courses [36]
 - ~~9~~7. Samples – Audit, Review or Compilation [38]
 - ~~4~~08. Notification to Clients/Cessation of Practice [42]
 - ~~1~~49. Administrative Penalty not to exceed maximum set forth in BPC section 5116 [43]

(Reference CCR Sectionsection 46)

Section 5078 OFFICES NOT UNDER PERSONAL MANAGEMENT OF CERTIFIED PUBLIC ACCOUNTANT OR PUBLIC ACCOUNTANT; SUPERVISION

Minimum Penalty – Continuing Education Courses for Licensee Owners [36] and/or require CPA or PA to develop standards for supervision, and implement a practice plan; permit practice investigation within 3 months to insure compliance [20]

Maximum Penalty – Revocation [1, 2]

CONDITIONS OF PROBATION:

- Required:
1. If revocation stayed [4], 3 years probation
 2. Standard Conditions of Probation [~~1516-2425~~27]

- If warranted:
1. Suspension [3] with/without stay [4]
 2. Supervised Practice [~~2526~~28]
 3. Probation Monitoring Costs [~~2728~~30]
 4. Restricted Practice [~~2829~~31]
 - ~~5. Ethics Continuing Education [3132]~~
 - ~~6. Regulatory Review Course [3233]~~
 - ~~7~~5. Continuing Education Courses [36]
 - ~~8~~6. Administrative Penalty not to exceed maximum set forth in BPC section 5116 [43]

Section 5079(a)(b)(d) NONLICENSEE OWNERSHIP OF FIRMS

Minimum Penalty – Continuing Education Courses [36] for California licensee partners or for licensee shareholders of corporation

Maximum Penalty – Revocation of partnership or corporate registration and individual licenses [1, 2]

CONDITIONS OF PROBATION:

Required: 1. If revocation stayed [4], 3 years probation
2. Standard Conditions of Probation [~~1516-2425~~27]

If warranted: 1. Suspension [3] with/without stay [4]
2. Probation Monitoring Costs [~~2728~~30]
3. Restricted Practice [~~2829~~31]
~~4. Ethics Continuing Education [3132]~~
~~5. Regulatory Review Course [3233]~~
6. Administrative Penalty not to exceed maximum set forth in BPC section 5116 [43]

(Reference CCR Section ~~section~~ 51.1)

ARTICLE 5

Section 5081(a) REQUIREMENTS FOR ADMISSION TO CERTIFIED PUBLIC ACCOUNTANT EXAMINATION (ACTS DENYING ADMISSION TO EXAM)

Minimum Penalty – Probationary conditions on initial license (if not yet licensed) or revocation, stayed with probation (if already licensed); reference appropriate subsection of BPC Section ~~section~~ 5100 for applicable provisions

Maximum Penalty – Denial of admission to examination or revocation of license if issued

(~~See~~Reference relevant section for discipline based upon nature of act.)

If warranted: 1. Administrative Penalty not to exceed maximum set forth in BPC section 5116 [43]

Section 5081(b)(c) REQUIREMENTS FOR ADMISSION TO CERTIFIED PUBLIC ACCOUNTANT EXAMINATION

Minimum/Maximum Penalty – Denial of admission to examination, or revocation of license if issued.

If warranted: 1. Administrative Penalty not to exceed maximum set forth in BPC section 5116 [43]

Section 5088 INTERIM PRACTICE RIGHTS: OUT-OF-STATE CPA

Minimum/Maximum Penalty – If ~~Board~~ CBA rejects application, cease practice immediately. If practice continues, see provisions on **Unlicensed Activities** and **Practice Privilege**.

**Section 5095(a) MINIMUM NUMBER OF ATTEST SERVICES HOURS;
ATTEST EXPERIENCE**

Minimum Penalty – Revocation stayed and 3 years probation (if license was issued). Cannot apply for license for 12 months (if not yet licensed), and, if application is subsequently approved, conditional license with probation for 3 years.

Maximum Penalty – Revocation [1, 2]

CONDITIONS OF PROBATION:

Required: 1. If revocation stayed [4], 3 years probation
2. Standard Conditions of Probation [~~1516-2425~~27]

If warranted: 1. Suspension [3] with/without stay [4]
2. Probation Monitoring Costs [~~2728~~30]
3. Restricted Practice [~~2829~~31]
~~4. Ethics Continuing Education [3132]~~
~~5. Regulatory Review Course [3233]~~
6. CPA Exam [3435]
7. Continuing Education Courses [36]
8. Active License Status [3637]
9. Notification to Clients/Cessation of Practice [42]
10. Administrative Penalty not to exceed maximum set forth in BPC section 5116 [43]

ARTICLE 5.1: Practice Privilege

Section 5096(d) PRACTICING THROUGH AN UNREGISTERED FIRM

Minimum Penalty – Revocation stayed [~~1, 2, 4~~], 3 years probation [1, 2, 4]

Maximum Penalty – Revoke Practice Privilege [1, 2]

CONDITIONS OF PROBATION:

Required: 1. If revocation stayed [4], probation 3 to 5 years
2. Standard Conditions of Probation [~~1516-21, 23, 24, 25~~ 16-22, 24-27]

If warranted: 1. Suspension [3]
2. Probation Monitoring Costs [~~2728~~30]
~~3. Ethics Continuing Education [3132]~~
~~4. Regulatory Review Course [3233]~~
5. Administrative Penalty not to exceed maximum set forth in BPC section 5116 [43]

Section 5096(e)(2) COMPLY WITH RULES, LAWS, AND STANDARDS

Minimum Penalty – One year suspension [3]

Maximum Penalty – Revoke Practice Privilege [1, 2]

CONDITIONS OF PROBATION:

- Required:
1. If revocation stayed [4], probation 3 to 5 years
 2. Suspension [3] (BPC Sectionsection 5096(g)).
 3. Standard Conditions of Probation [~~1516-21, 23, 24, 25~~ 16-22, 24-27]

- If warranted:
1. Probation Monitoring Costs [~~272830~~]
 - ~~2. Ethics Continuing Education [3132]~~
 - ~~3. Regulatory Review Course [3033]~~
 4. Administrative Penalty not to exceed maximum set forth in BPC section 5116 [43]

Section 5096(e)(3) PRACTICE FROM AN UNAUTHORIZED OFFICE IN THIS STATE

Minimum Penalty – One year suspension [3]

Maximum Penalty – Revoke Practice Privilege [1, 2]

CONDITIONS OF PROBATION:

- Required:
1. If revocation stayed [4], probation 3 to 5 years
 2. Suspension [3] (BPC Sectionsection 5096(g))
 3. Standard Conditions of Probation [~~1516-21, 23, 24, 25~~ 16-22, 24-27]

- If warranted:
1. Probation Monitoring Costs [~~272830~~]
 - ~~2. Ethics Continuing Education [3132]~~
 - ~~3. Regulatory Review Course [3233]~~
 4. Administrative Penalty not to exceed maximum set forth in BPC section 5116 [43]

Section 5096(e)(5) COOPERATE WITH BOARD

Minimum Penalty – One year suspension [3]

Maximum Penalty – Revoke Practice Privilege [1, 2]

CONDITIONS OF PROBATION:

- Required:
1. If revocation stayed [4], probation 3 to 5 years
 2. Suspension [3] (BPC Sectionsection 5096(g)).
 3. Standard Conditions of Probation [~~1516-21, 23, 24, 25~~ 16-22, 24-27]

- If warranted:
1. Probation Monitoring Costs [~~272830~~]
 - ~~2. Ethics Continuing Education [3132]~~
 - ~~3. Regulatory Review Course [3233]~~
 4. Administrative Penalty not to exceed maximum set forth in BPC section 5116 [43]

Section 5096(e)(6), (7), (8), & (9) FAILURE TO CEASE EXERCISING THE PRACTICE PRIVILEGE

Minimum Penalty – One year suspension [3]

Maximum Penalty – Revoke Practice Privilege [1, 2]

CONDITIONS OF PROBATION:

- Required:
1. If revocation stayed [4], probation 3 to 5 years
 2. Suspension [3] (BPC Sectionsection 5096(g)).
 3. Standard Conditions of Probation [~~1516-21, 23, 24, 25~~ 16-22, 24-27]

- If warranted:
- ~~1. Ethics Continuing Education [3132]~~
 - ~~2. Regulatory Review Course [3233]~~
 31. Administrative Penalty not to exceed maximum set forth in BPC section 5116 [43]

If it is determined that the failure to cease practice or provide the notice was intentional, that individual’s practice privilege shall be revoked and there shall be no possibility of reinstatement for a minimum of two years pursuant to Section 5096(g).

Section 5096(e)(10) FAILURE TO REPORT PENDING CRIMINAL CHARGES

Minimum Penalty – One year of suspension [3]
 Maximum Penalty – Revoke Practice Privilege [1, 2]

CONDITIONS OF PROBATION:

- Required:
1. If revocation stayed [4], probation 3 to 5 years
 2. Suspension [3] (BPC section 5096(g)).
 3. Standard Conditions of Probation [~~1516-21, 23, 24, 25~~ 16-22, 24-27]

- If warranted:
1. Probation Monitoring Costs [~~272830~~]
 - ~~2. Ethics Continuing Education [32]~~
 - ~~3. Regulatory Review Course [33]~~
 42. Administrative Penalty not to exceed maximum set forth in BPC section 5116 [43]

Section 5096(f) FAILURE TO NOTIFY THE BOARD/CEASE PRACTICE

Minimum Penalty – One year suspension [3]
 Maximum Penalty – Revoke Practice Privilege [1, 2]

CONDITIONS OF PROBATION:

- Required:
1. If revocation stayed [4], probation 3 to 5 years
 2. Suspension [3] (BPC Sectionsection 5096(g))
 3. Standard Conditions of Probation [~~1516-21, 23, 24, 25~~ 16-22, 24-27]

- If warranted:
1. Probation Monitoring Costs [~~272830~~]
 - ~~2. Ethics Continuing Education [3132]~~
 - ~~3. Regulatory Review Course [3233]~~
 42. Administrative Penalty not to exceed maximum set forth in BPC section 5116 [43]

If it is determined that the failure to cease practice or provide the notice was intentional, that individual's practice privilege shall be revoked and there shall be no possibility of reinstatement for a minimum of two years pursuant to Section 5096(g).

Section 5096(i) FAILURE TO FILE PRE-NOTIFICATION FORM

Minimum Penalty – One year suspension [3]

Maximum Penalty – Revoke Practice Privilege [1, 2]

CONDITIONS OF PROBATION:

Required: 1. If revocation stayed [4], probation 3 to 5 years
 2. Suspension [3] (~~BPC Section~~section 5096(g)).
 3. Standard Conditions of Probation [~~1516-21, 23, 24, 25~~ 16-22, 24-27]

If warranted: 1. Probation Monitoring Costs [~~272830~~]
 ~~2. Ethics Continuing Education [3132]~~
 ~~3. Regulatory Review Course [3233]~~
 4. Administrative Penalty not to exceed maximum set forth in
 BPC section 5116 [43]

If it is determined that the failure to cease practice or provide the notice was intentional, that individual's practice privilege shall be revoked and there shall be no possibility of reinstatement for a minimum of two years.

Section 5096.5 UNAUTHORIZED SIGNING OF ATTEST REPORTS

Minimum Penalty – Revocation stayed [~~1, 2, 4~~], 3 years probation [1, 2, 4]

Maximum Penalty – Revoke Practice Privilege [1, 2]

CONDITIONS OF PROBATION:

Required: 1. If revocation stayed [4], probation 3 to 5 years
 2. Suspension [3] (~~BPC Section~~section 5096(g))
 3. Standard Conditions of Probation [~~1516-21, 23, 24, 25~~ 16-22, 24-27]

If warranted: 1. Probation Monitoring Costs [~~272830~~]
 ~~2. Ethics Continuing Education [3132]~~
 ~~3. Regulatory Review Course [3233]~~
 4. Administrative Penalty not to exceed maximum set forth in
 BPC section 5116 [43]

Section 5096.12 FIRM PRACTICING WITHOUT A PRACTICE PRIVILEGE HOLDER

Minimum Penalty – Revocation stayed [~~1, 2, 4~~], 3 years probation [1, 2, 4]

Maximum Penalty – Revoke Practice Privilege [1, 2]

CONDITIONS OF PROBATION:

Required: 1. If revocation stayed [4], probation 3 to 5 years
 2. Standard Conditions of Probation [~~1516-21, 23, 24, 25~~ 16-22, 24-27]

- If warranted:
1. Probation Monitoring Costs [~~27~~~~28~~~~30~~]
 2. Suspension [3] (BPC Section~~section~~ 5096(g))
 - ~~3. Ethics Continuing Education [3132]~~
 - ~~4. Regulatory Review Course [3233]~~
 - ~~5~~3. Administrative Penalty not to exceed maximum set forth in BPC section 5116 [43]

ARTICLE 5.5

Section 5097 **AUDIT DOCUMENTATION**

Minimum Penalty – Continuing Education Courses [36]
 Maximum Penalty – Revocation [1, 2]

CONDITIONS OF PROBATION:

- Required:
1. If revocation stayed [4], 3 years probation
 2. Standard Conditions of Probation [~~15~~~~16~~-~~24~~~~25~~~~27~~]

- If warranted:
1. Suspension [3] with/without stay [4]
 2. Supervised Practice [~~25~~~~26~~~~28~~]
 3. Probation Monitoring Costs [~~27~~~~28~~~~30~~]
 4. Restricted Practice [~~28~~~~29~~~~31~~]
 5. Library Reference Materials [~~30~~~~31~~~~33~~]
 - ~~6. Ethics Continuing Education [3132]~~
 - ~~7. Regulatory Review Course [33]~~
 - ~~8~~6. Peer Review [3334]
 - ~~9~~7. CPA Exam [3435]
 - ~~10~~8. Continuing Education Courses [36]
 - ~~11~~9. Samples - Audits, Review or Compilation [38]
 - ~~12~~10. Community Service – Free Services [40]
 - ~~13~~11. Notice to Clients [42]
 - ~~14~~12. Administrative Penalty not to exceed maximum set forth in BPC section 5116 [43]

(Reference CCR Section~~sections~~ 68.2, 68.3, 68.4, 68.5)

ARTICLE 6

Section 5100 **DISCIPLINE IN GENERAL, (including but not limited to that set forth in subsections (a) through (l) of this section)**

Minimum Penalty – Continuing Education Courses [36]
 Maximum Penalty – Revocation [1, 2]

CONDITIONS OF PROBATION:

- Required:
1. If revocation stayed [4], probation of 3 to 5 years

2. Standard Conditions of Probation [~~1516-2425~~27]

- If warranted:
1. Suspension [3] with/without stay [4]
 2. Probation Monitoring Costs [~~2728~~30]
 3. Optional conditions which relate to underlying facts and circumstances; reference conditions listed in BPC sections 5100 (a)-(j)
 4. Administrative Penalty not to exceed maximum set forth in BPC section 5116 [43]

Section 5100(a) CONVICTION OF ANY CRIME SUBSTANTIALLY RELATED TO THE QUALIFICATIONS, FUNCTIONS AND DUTIES OF A CPA/PA

FOR FELONY CONVICTIONS OR MULTIPLE MISDEMEANOR CONVICTIONS, WITH THE EXCEPTION OF MISDEMEANOR ALCOHOL/DRUG CONVICTIONS FOR VEHICLE CODE SECTION 23152 AND DRUG CONVICTIONS FOR POSSESSION FOR PERSONAL USE:

Minimum Penalty – Revocation stayed. Actual suspension from practice 120 days.
Three years probation [1-4]

Maximum Penalty – Revocation [1, 2]

FOR MULTIPLE MISDEMEANOR ALCOHOL/DRUG CONVICTIONS FOR VEHICLE CODE SECTION 23152 AND DRUG CONVICTIONS FOR POSSESSION FOR PERSONAL USE:

Minimum Penalty – 120-day suspension stayed, and 1 year probation [1-4]

Maximum Penalty – Revocation [1, 2]

CONDITIONS OF PROBATION:

- Required:
1. If revocation/suspension stayed [4], probation of 31 to 5 years
 2. Suspension [3]
 3. Standard Conditions of Probation [~~1516-2425~~27]

- If warranted:
1. Supervised Practice [~~2526~~28]
 2. Restitution [~~2627~~29]
 3. Probation Monitoring Costs [~~2728~~30]
 4. Restricted Practice [~~2829~~31]
 5. Engagement Letters [~~2930~~32]
 - ~~6. Ethics Continuing Education [3132]~~
 - ~~7. Regulatory Review Course [3233]~~
 - ~~8. CPA Exam [2335] or Enrolled Agents Exam [35]~~
 - ~~9. Continuing Education Courses [36]~~
 - ~~40. Samples - Audit, Compilation or Review [38]~~
 - ~~41. Prohibition from Handling Funds [39]~~
 - ~~42. Community Service – Free Services [40]~~
 - ~~43. Administrative Penalty not to exceed maximum set forth in BPC section 5116 [43]~~
 - ~~44. Conditions as appropriate relating to physical or mental disability or condition [44-49]~~

IN THE CASE OF A SINGLE MISDEMEANOR VIOLATION, TAILOR PROBATION TO CIRCUMSTANCES; ADJUSTING THE REQUIRED CONDITIONS ACCORDINGLY AND CHOOSING APPROPRIATE WARRANTED CONDITIONS FROM THE ABOVE LIST.

Section 5100(b) FRAUD OR DECEIT IN OBTAINING LICENSE/PERMIT/REGISTRATION

Minimum Penalty – Revocation stayed with 180 days actual suspension and 3 years probation (if license was issued). Cannot apply for license for 12 months (if not yet licensed), and, if application is subsequently approved, conditional license with probation for 3 years.

Maximum Penalty – Revocation or application denied. [1, 2]

CONDITIONS OF PROBATION:

Required: 1. If revocation stayed [4], probation of 3 to 5 years
2. Suspension [3]
3. Standard Conditions of Probation [~~1516-2425~~27]

If warranted: 1. Probation Monitoring Costs [~~2728~~30]
~~2. Ethics Continuing Education [3132]~~
~~3. Regulatory Review Course [3233]~~
4. Continuing Education Courses [36]
~~5.~~ Administrative Penalty not to exceed maximum set forth in BPC section 5116 [43]

Section 5100(c) DISHONESTY, FRAUD, GROSS NEGLIGENCE, OR REPEATED ACTS OF NEGLIGENCE IN THE PRACTICE OF PUBLIC ACCOUNTANCY OR THE PERFORMANCE OF BOOKKEEPING

Minimum Penalty – Revocation stayed [~~1, 2, 4~~], 3 years probation [1, 2, 4].

Maximum Penalty – Revocation [1, 2]

CONDITIONS OF PROBATION:

Required: 1. If revocation stayed [4], probation of 3 to 5 years
2. Standard Conditions of Probation [~~1516-2425~~27]

If warranted: 1. Supervised Practice [~~2526~~28]
2. Restitution [~~2627~~29]
3. Probation Monitoring Costs [~~2728~~30]
4. Restricted Practice [~~2829~~31]
~~5. Ethics Continuing Education [3132]~~
~~6. Regulatory Review Course [3133]~~
7. Peer Review [3334]
8. CPA Exam [3435]
9. Continuing Education Courses [36]
~~10.~~ Samples - Audit, Review or Compilation [38]
~~11.~~ Prohibition from Handling Funds [39]
~~12.~~10. Community Service – Free Services [40]

- ~~43~~11. Notification to Clients [42]
- ~~44~~12. Administrative Penalty not to exceed maximum set forth in BPC section 5116 [43]
- ~~45~~13. Conditions as appropriate relating to physical or mental disability or condition [44-49]

Section 5100(d) CANCELLATION, REVOCATION OR SUSPENSION BY ANY OTHER STATE OR FOREIGN COUNTRY

Minimum Penalty – Revocation stayed [1, 2, 4], probation 3 years
 Maximum Penalty – Revocation [1, 2]

CONDITIONS OF PROBATION:

- Required:
- 1. If revocation stayed [4], probation of 3 to 5 years
 - 2. Standard Conditions of Probation [~~45~~16-24~~25~~27]

If warranted (include those related to underlying offense(s)):

- 1. Suspension [3] with/without stay [4]
- 2. Supervised Practice [~~25~~26~~28~~]
- 3. Restitution [~~26~~27~~29~~]
- 4. Probation Monitoring Costs [~~27~~28~~30~~]
- 5. Restricted Practice [~~28~~29~~31~~]
- ~~6. Ethics Continuing Education [31]~~
- ~~7. Regulatory Review Course [32]~~
- ~~8~~6. CPA Exam [~~34~~35] or Enrolled Agents Exam [35]
- ~~9~~7. Continuing Education Courses [36]
- ~~40~~8. Samples - Audit, Review or Compilation [38]
- ~~44~~9. Prohibition from Handling Funds [39]
- ~~42~~10. Community Service – Free Services [40]
- ~~43~~11. Notice to Clients [42]
- ~~44~~12. Conditions as appropriate relating to physical or mental disability or condition [44-49]

Section 5100(e) VIOLATION OF PROVISIONS OF SECTION 5097

Minimum Penalty – Continuing Education Courses [36]
 Maximum Penalty – Revocation [1, 2]

CONDITIONS OF PROBATION:

- Required:
- 1. If revocation stayed [4], 3 years probation
 - 2. Standard Conditions of Probation [~~45~~16-24~~25~~27]
 - 3. Continuing Education Courses [36]

- If warranted:
- 1. Suspension [3] with/without stay [4]
 - 2. Supervised Practice [~~25~~26~~28~~]
 - 3. Probation Monitoring Costs [~~27~~28~~30~~]
 - 4. Restricted Practice [~~28~~29~~31~~]
 - 5. Library Reference Materials [~~30~~31~~33~~]

- ~~6. Ethics Continuing Education [3132]~~
- ~~7. Regulatory Review Course [3233]~~
- ~~86. Peer Review [3234]~~
- ~~97. CPA Exam [3435]~~
- ~~108. Samples - Audits, Review or Compilation [38]~~
- ~~119. Community Service – Free Services [40]~~
- ~~1210. Notice to Clients [42]~~
- ~~1311. Administrative Penalty not to exceed maximum set forth in BPC section 5116 [43]~~

Section 5100(f) VIOLATIONS OF PROVISIONS OF SECTION 5120

BPC Section section 5120 states "Any person who violates any of the provisions of Article 3 (commencing with section 5050) is guilty of a misdemeanor, punishable by imprisonment for not more than six months, or by a fine of not more than one thousand dollars, or both. "Whenever the Board has reason to believe that any person is liable for punishment under this article, the Board or its designated representatives, may certify the facts to the appropriate enforcement officer of the city or county where the alleged violation had taken place and the officer may cause appropriate proceedings to be brought."

Violations of Article 3 include:

5050 and 5051	PRACTICE WITHOUT PERMIT/ PUBLIC ACCOUNTANCY" DEFINED
5055 and 5056	TITLE OF CERTIFIED PUBLIC ACCOUNTANT/ PUBLIC ACCOUNTANT
5058	USE OF CONFUSING TITLES OR DESIGNATIONS PROHIBITED

Minimum/Maximum Penalty – See specific statute/regulation violated for recommended penalty

Section 5100(g) WILLFUL VIOLATION OF THE ACCOUNTANCY ACT, OR A RULE OR REGULATION PROMULGATED BY THE BOARD

Minimum/Maximum Penalty – See specific statute or regulation violated for recommended penalty

Section 5100(h) SUSPENSION OR REVOCATION OF THE RIGHT TO PRACTICE BEFORE ANY GOVERNMENTAL BODY OR AGENCY

Minimum Penalty – Revocation stayed [~~1, 2, 4~~], 3 years probation [1, 2, 4]

Maximum Penalty – Revocation [1, 2]

CONDITIONS OF PROBATION:

- Required:
1. If revocation stayed [4], 3 years probation
 2. Standard Conditions of Probation [~~1516-2425~~27]

If warranted (include those related to underlying offense(s)):

1. Suspension [3] with/without stay [4]
2. Supervised Practice [~~25~~~~26~~28]
3. Restitution [~~26~~~~27~~29]
4. Probation Monitoring Costs [~~27~~~~28~~30]
5. Restricted Practice [~~28~~~~29~~31]
- ~~6. Ethics Continuing Education [3132]~~
- ~~7. Regulatory Review Course [3233]~~
- ~~8~~6. CPA Exam [3435] or Enrolled Agents Exam [35]
- ~~9~~7. Continuing Education Courses [36]
- ~~40~~8. Samples - Audit, Review or Compilation [38]
- ~~44~~9. Prohibition from Handling Funds [39]
- ~~42~~10. Community Service – Free Services [40]
- ~~43~~11. Notice to Clients [42]
- ~~44~~12. Administrative Penalty not to exceed maximum set forth in BPC section 5116 [43]
- ~~45~~13. Conditions as appropriate relating to physical or mental disability or condition [44-49]

Section 5100(i) FISCAL DISHONESTY OR BREACH OF FIDUCIARY RESPONSIBILITY OF ANY KIND

Minimum Penalty – Revocation stayed, 30 day suspension, 3 years probation [1-4]

Maximum Penalty – Revocation [1, 2]

CONDITIONS OF PROBATION:

- Required:
1. If revocation stayed [4], probation of 3 to 5 years
 2. Suspension [3]
 3. Standard Conditions of Probation [~~45~~16-~~24~~~~25~~27]

- If warranted:
1. Supervised Practice [~~25~~~~26~~28]
 2. Restitution [~~26~~~~27~~29]
 3. Probation Monitoring Costs [~~27~~~~28~~30]
 4. Restricted Practice [~~28~~~~29~~31]
 - ~~5. Ethics Continuing Education [3132]~~
 - ~~6. Regulatory Review Course [3233]~~
 - ~~7~~5. CPA Exam [3435] or Enrolled Agents Exam [35]
 - ~~8~~6. Continuing Education Courses [36]
 - ~~9~~7. Prohibition from Handling Funds [39]
 - ~~40~~8. Community Service – Free Services [40]
 - ~~44~~9. Notice to Clients [42]
 - ~~42~~10. Administrative Penalty not to exceed maximum set forth in BPC section 5116 [43]
 - ~~43~~11. Conditions as appropriate relating to physical or mental disability or condition [44-49]

Section 5100(j) KNOWING PREPARATION, PUBLICATION OR DISSEMINATION OF FALSE, FRAUDULENT, OR MATERIALLY MISLEADING FINANCIAL

STATEMENTS, REPORTS, OR INFORMATION

Minimum Penalty – Revocation stayed, 60 days suspension, 3 years probation [1-4]

Maximum Penalty – Revocation [1, 2]

CONDITIONS OF PROBATION:

Required: 1. If revocation stayed [4], 3 to 5 years probation
 2. Suspension [3]
 3. Standard Conditions of Probation [~~15~~16-~~24~~25~~27~~]

If warranted: 1. Supervised Practice [~~25~~26~~28~~]
 2. Restitution [~~26~~27~~29~~]
 3. Probation Monitoring Costs [~~27~~28~~30~~]
 4. Restricted Practice [~~28~~29~~31~~]
 5. Engagement Letters [~~29~~30~~32~~]
 6. Ethics Continuing Education [~~31~~32]
 7. Regulatory Review Course [~~32~~33]
 ~~8~~6. CPA Exam [~~25~~35] or Enrolled Agents Exam [~~35~~]
 ~~9~~7. Continuing Education Courses [36]
 ~~10~~8. Samples - Audit, Review or Compilation [38]
 ~~11~~9. Community Service – Free Services [40]
 ~~12~~10. Notice to Clients [42]
 ~~13~~11. Administrative Penalty not to exceed maximum set forth in
 BPC section 5116 [43]
 ~~14~~12. Conditions as appropriate relating to physical or mental disability or
 condition [44-49]

Section 5100(k) EMBEZZLEMENT, THEFT, MISAPPROPRIATION OF FUNDS OR PROPERTY, OR OBTAINING MONEY, PROPERTY OR OTHER VALUABLE CONSIDERATION BY FRAUDULENT MEANS OR FALSE PRETENSES

Minimum Penalty – Revocation stayed, 90 day suspension, 3 years probation [1-4]

Maximum Penalty – Revocation [1, 2]

CONDITIONS OF PROBATION:

Required: 1. If revocation stayed [4], probation of 3 to 5 years
 2. Suspension [3]
 3. Standard Conditions of Probation [~~15~~16-~~24~~25~~27~~]

If warranted: 1. Supervised Practice [~~25~~26~~28~~]
 2. Restitution [~~26~~27~~29~~]
 3. Probation Monitoring Costs [~~27~~28~~30~~]
 4. Restricted Practice [~~28~~29~~31~~]
 ~~5~~. Ethics Continuing Education [~~31~~32]
 ~~6~~. Regulatory Review Course [~~32~~33]
 ~~7~~5. CPA Exam [~~34~~35] or Enrolled Agents Exam [~~35~~]
 ~~8~~6. Continuing Education Courses [36]

- ~~9~~7. Prohibition from Handling Funds [39]
- ~~10~~8. Notice to Clients [42]
- ~~11~~9. Administrative Penalty not to exceed maximum set forth in BPC section 5116 [43]
- ~~12~~10. Conditions as appropriate relating to physical or mental disability or condition [44-49]

Section 5100(l) DISCIPLINE, PENALTY, OR SANCTION BY THE PUBLIC COMPANY ACCOUNTING OVERSIGHT BOARD OR SECURITIES AND EXCHANGE COMMISSION

Minimum Penalty – Revocation stayed [1, 2, 4], 3 years probation

Maximum Penalty – Revocation [1, 2]

CONDITIONS OF PROBATION:

- Required:
- 1. If revocation stayed [4], 3 years probation
 - 2. Standard Conditions of Probation [~~15~~16-~~24~~25~~27~~]

If warranted (include those related to underlying offense(s)):

- 1. Suspension [3] with/without stay [4]
- 2. Supervised Practice [~~25~~26~~28~~]
- 3. Restitution [~~26~~27~~29~~]
- 4. Probation Monitoring Costs [~~27~~28~~30~~]
- 5. Restricted Practice [~~28~~29~~31~~]
- ~~6. Ethics Continuing Education [32]~~
- ~~7. Regulatory Review Course [3233]~~
- ~~86. CPA Exam [3435] or Enrolled Agents Exam [35]~~
- ~~9~~7. Continuing Education Courses [36]
- ~~10~~8. Samples - Audit, Review or Compilation [38]
- ~~11~~9. Prohibition from Handling Funds [39]
- ~~12~~10. Community Service – Free Services [40]
- ~~13~~11. Notice to Clients [42]
- ~~14~~12. Administrative Penalty not to exceed maximum set forth in BPC section 5116 [43]
- ~~15~~13. Conditions as appropriate relating to physical or mental disability or condition [44-49]

Section 5100(m) UNLAWFULLY ENGAGING IN PRACTICE OF PUBLIC ACCOUNTANCY IN ANOTHER STATE

Minimum Penalty – Continuing Education Courses [36]

Maximum Penalty – Revocation [1, 2]

CONDITIONS OF PROBATION:

- Required:
- 1. If revocation stayed [4], 3 years probation
 - 2. Standard Conditions of Probation [~~15~~16-~~24~~25~~27~~]

If warranted: 1. Suspension [3] with/without stay [4]

2. Probation Monitoring Costs [~~272830~~]
3. Restricted Practice [~~282931~~]
- ~~4. Ethics Continuing Education [3132]~~
- ~~5. Regulatory Review Course [3233]~~
6. Continuing Education Courses [36]
7. Active License Status [37]
8. Administrative Penalty not to exceed maximum set forth in BPC section 5116 [43]

Section 5101 DISCIPLINE OF PARTNERSHIP

Minimum Penalty – Revocation stayed [~~1, 2, 4~~], 3 years probation [1, 2, 4]

Maximum Penalty – Revocation [1, 2]

CONDITIONS OF PROBATION:

Required: 1. Standard Conditions of Probation [~~1516-242527~~]

- If warranted:
1. Suspension [3] with/without stay [4]
 2. Supervised Practice [~~252628~~]
 3. Restitution [~~262729~~]
 4. Probation Monitoring Costs [~~272830~~]
 5. Restricted Practice [~~282931~~]
 6. Engagement Letters [~~293032~~]
 7. Administrative Penalty not to exceed maximum set forth in BPC section 5116 [43]

Section 5104 RELINQUISHMENT OF CERTIFICATE OR PERMIT (revocation or suspension)

Minimum/Maximum Penalty – Revocation [1, 2]

Section 5105 RELINQUISHMENT OF CERTIFICATE OR PERMIT (delinquent)

Minimum/Maximum Penalty – Revocation [1, 2]

Section 5110(a) ACTS CONSTITUTING CAUSE FOR BOARD’S DENIAL OF EXAM APPLICATION OR ADMISSION, VOIDANCE OF GRADES, OR DENIAL OF LICENSE APPLICATION OR REGISTRATION

Minimum/Maximum Penalty – Denial of admission to examination, denial of licensure application, or revocation of license if issued.

- If warranted:
1. Administrative Penalty not to exceed maximum set forth in BPC Section ~~section~~ 5116 [43]

ARTICLE 7

Sections 5120/5121 VIOLATIONS AS MISDEMEANOR/EVIDENCE OF VIOLATION

(See Reference BPC Section section 5100(f) and section on Unlicensed Activities.)

ARTICLE 9

Section 5152 CORPORATION REPORTS

Minimum Penalty – Continuing Education Courses [36] for licensee directors, shareholders, and/or officers of corporation

Maximum Penalty – Suspend corporate accountancy registration and/or individual licenses for 90 days [3]

Section 5152.1 ACCOUNTANCY CORPORATION RENEWAL OF PERMIT TO PRACTICE

Minimum Penalty – Continuing Education Courses [36] for licensee directors, shareholders, and/or officers of corporation

Maximum Penalty – Suspend corporate accountancy registration and/or individual licenses for 90 days [3]

(See Reference BPC sections 5050 and 5060(b))

Section 5154 DIRECTORS, SHAREHOLDERS, AND OFFICERS MUST BE LICENSED

Minimum Penalty – Continuing Education Courses for licensee directors, shareholders, and/or officers of corporation [36]

Maximum Penalty – Revocation of corporate registration [1, 2] and discipline of individual licenses

CONDITIONS OF PROBATION:

Required: 1. Standard Conditions of Probation [~~1516-2425~~27]

If warranted: 1. Suspension [3] with/without stay [4]
2. Probation Monitoring Costs [~~2728~~30]
~~3. Ethics Continuing Education [3132]~~
~~4. Regulatory Review Course [3233]~~
5. Administrative Penalty not to exceed maximum set forth in BPC section 5116 [43]

Section 5155 DISQUALIFIED SHAREHOLDER NONPARTICIPATION

Minimum Penalty – Revocation stayed [~~1, 2, 4~~], 3 years probation [1, 2, 4]

Maximum Penalty – Revocation of individual and corporate license [1, 2]

CONDITIONS OF PROBATION:

Required: 1. Standard Conditions of Probation [~~1516-2425~~27]

If warranted: 1. Suspension [3] with/without stay [4]
2. Probation Monitoring Costs [~~2728~~30]
~~3. Ethics Continuing Education [3132]~~
~~4. Regulatory Review Course [3233]~~
5. Administrative Penalty not to exceed maximum set forth in BPC section 5116 [43]

**Section 5156 UNPROFESSIONAL CONDUCT
(ACCOUNTANCY CORPORATION)**

Minimum Penalty – Continuing Education Courses [36] for licensee directors, shareholders, and/or officers of corporation

Maximum Penalty – Revocation of individual and corporate licenses [1, 2]

CONDITIONS OF PROBATION:

Required: 1. If Revocation stayed [4], 3 to 5 years probation
2. Standard Conditions of Probation [~~1516-2425~~27]

If warranted: 1. Suspension [3] with/without stay [4]
2. Probation Monitoring Costs [~~2728~~30]
3. Ethics Continuing Education [3132] for licensee directors, shareholders and/or officers
4. Regulatory Review Course [3233] for licensee directors, shareholders and/or officers
5. Community Service – Free Services [40]
6. Administrative Penalty not to exceed maximum set forth in BPC section 5116 [43]

Note: An accountancy corporation is bound by the same regulations as individual respondents. See specific statute or regulation violated for recommended penalty.

**Section 5158 PRACTICE OF PUBLIC ACCOUNTANCY; MANAGEMENT
(ACCOUNTANCY CORPORATION)**

Minimum Penalty – Continuing Education Courses [36] for licensee directors, stakeholders, and/or officers of corporation. Require CPA or PA to develop management plan; permit practice investigation within 3 months to ensure compliance with management requirement and plan [20, 33]

Maximum Penalty – Revocation [1, 2]

CONDITIONS OF PROBATION:

Required: 1. If Revocation stayed [4], 3 to 5 years probation
2. Standard Conditions of Probation [~~1516-2425~~27]

- If warranted:
1. Supervised Practice [~~25~~2628]
 2. Restitution [~~26~~2729]
 3. Probation Monitoring Costs [~~27~~2830]
 4. Restricted Practice [~~28~~2931]
 5. Engagement Letters [~~29~~3032]
 - ~~6. Ethics Continuing Education [3132]~~
 - ~~7. Regulatory Review Course [3233]~~
 - ~~8~~6. Administrative Penalty not to exceed maximum set forth in BPC section 5116 [43]
 - ~~9~~7. Conditions as appropriate relating to physical or mental disability or condition [44-49]

CALIFORNIA BOARD OF ACCOUNTANCY REGULATIONS

TITLE 16 CALIFORNIA CODE OF REGULATIONS

ARTICLE 1: GENERAL

SECTION 3 NOTIFICATION OF CHANGE OF ADDRESS

Minimum Penalty – Continuing Education Courses [36]

Maximum Penalty – 90 day Suspension [3]

SECTION 5 OBSERVANCE OF RULES

Minimum Penalty – Continuing Education Courses [36]

Maximum Penalty – Revocation [1, 2]

CONDITIONS OF PROBATION:

Required: 1. If revocation stayed [4], 3 years probation
 2. Standard Conditions of Probation [~~15~~16-24~~25~~27]

If warranted: 1. Probation Monitoring Costs [~~27~~28~~30~~]
 ~~2. Ethics Continuing Education [3132]~~
 ~~3. Regulatory Review Course [3233]~~
 4. Continuing Education Courses [36]
 ~~5~~3. Samples - Audit, Review or Compilation [38]
 ~~6~~4. Community Service – Free Services [40]
 ~~7~~5. Administrative Penalty not to exceed maximum set forth in
 BPC section 5116 [43]

Note: Reference the specific regulation for appropriate discipline.

ARTICLE 2: EXAMINATIONS

SECTION 8.2 REQUIREMENTS FOR ISSUANCE OF THE AUTHORIZATION TO TEST

Minimum Penalty – Probationary conditions on initial license (if not yet licensed) or revocation, stayed with probation (if already licensed); reference appropriate subsection of BPC section 5100 for applicable provisions

Maximum Penalty – Denial of admission to examination or revocation of license if issued; Administrative Penalty not to exceed maximum set forth in BPC section 5116 [43]

ARTICLE 3: PRACTICE PRIVILEGES

SECTION 20 NOTIFICATION OF CHANGE OF INFORMATION FOR REGISTERED OUT-OF-STATE ACCOUNTING FIRMS

Minimum Penalty – Continuing Education Courses [36]

Maximum Penalty – 90 day Suspension [3]

CONDITIONS OF PROBATION:

- Required:
1. If suspension stayed [4], probation 3 to 5 years
 2. Standard Conditions of Probation [~~4516-2425~~27]

- If warranted:
1. Administrative Penalty not to exceed maximum set forth in BPC section 5116 [43]

ARTICLE 5: REGISTRATION

SECTION 37.5 FINGERPRINTING

Minimum Penalty – Continuing Education Courses [36]

Maximum Penalty – Revocation [1, 2]

CONDITIONS OF PROBATION:

- Required:
1. If revocation stayed [4], 3 years probation
 2. Standard Conditions of Probation [~~4516-2425~~27]

- If warranted:
1. Probation Monitoring Costs [~~2728~~30]
 - ~~2. Ethics Continuing Education [3132]~~
 - ~~3. Regulatory Review Course [3233]~~
 4. Continuing Education Courses [36]
 - ~~5.~~ Administrative Penalty not to exceed maximum set forth in BPC Section section 5116 [43]

ARTICLE 6: PEER REVIEW

SECTION 40(a)(b)(c) ENROLLMENT AND PARTICIPATION

Minimum Penalty – Continuing Education Courses [36]

Maximum Penalty – Revocation [1, 2]

CONDITIONS OF PROBATION:

- Required:
1. If revocation stayed [4], 3 years probation
 2. Standard Conditions of Probation [~~4516-2425~~27]

- If warranted:
1. Suspension [3] with/without stay [4]
 2. Supervised Practice [~~2526~~28]
 3. Probation Monitoring Costs [~~2728~~30]
 4. Restricted Practice [~~2829~~31]

- ~~5. Ethics Continuing Education [3132]~~
- ~~6. Regulatory Review Course [3233]~~
- ~~7. Peer Review [3334]~~
- ~~8. Continuing Education Courses [36]~~
- ~~9. Samples – Audit, Review or Compilation [38]~~
- ~~10. Notification to Clients/Cessation of Practice [42]~~
- ~~11. Administrative Penalty not to exceed maximum set forth in BPC section 5116 [43]~~

(Reference BPC Section ~~section~~ 5076(a))

SECTION 41 FIRM RESPONSIBILITIES

Minimum Penalty – Continuing Education Courses [36]

Maximum Penalty – Revocation [1, 2]

CONDITIONS OF PROBATION:

- Required:
1. If revocation stayed [4], 3 years probation
 2. Standard Conditions of Probation [~~1516-2425~~27]

- If warranted:
1. Probation Monitoring Costs [~~2728~~30]
 - ~~2. Ethics Continuing Education [3132]~~
 - ~~3. Regulatory Review Course [3233]~~
 - ~~4. Continuing Education Courses [36]~~
 - ~~5. Administrative Penalty not to exceed maximum set forth in BPC section 5116 [43]~~

(Reference BPC Section ~~section~~ 5076(a))

SECTION 43 EXTENSIONS

Minimum Penalty – Continuing Education Courses [36]

Maximum Penalty – Revocation [1, 2]

CONDITIONS OF PROBATION:

- Required:
1. If revocation stayed [4], 3 years probation
 2. Standard Conditions of Probation [~~1516-2425~~27]

- If warranted:
1. Probation Monitoring Costs [~~2728~~30]
 - ~~2. Ethics Continuing Education [3132]~~
 - ~~3. Regulatory Review Course [3233]~~
 - ~~4. Continuing Education Courses [36]~~
 - ~~5. Administrative Penalty not to exceed maximum set forth in BPC section 5116 [43]~~

SECTION 44 NOTIFICATION OF EXPULSION

Minimum Penalty – Continuing Education Courses [36]

Maximum Penalty – Revocation [1, 2]

CONDITIONS OF PROBATION:

Required: 1. If revocation stayed [4], 3 years probation
2. Standard Conditions of Probation [~~1516-2425~~27]

If warranted: 1. Suspension [3] with/without stay [4]
2. Supervised Practice [~~2526~~28]
3. Probation Monitoring Costs [~~2728~~30]
4. Restricted Practice [~~2829~~31]
~~5. Ethics Continuing Education [3132]~~
~~6. Regulatory Review Course [3233]~~
7. Continuing Education Courses [36]
~~8. Samples – Audit, Review or Compilation [38]~~
~~9. Administrative Penalty not to exceed maximum set forth in BPC section 5116 [43]~~
~~10. Conditions as appropriate relating to physical or mental disability or condition [44-49]~~

SECTION 45 REPORTING TO BOARD

Minimum Penalty – Continuing Education Courses [36]

Maximum Penalty – Revocation [1, 2]

CONDITIONS OF PROBATION:

Required: 1. If revocation stayed [4], 3 years probation
2. Standard Conditions of Probation [~~1516-2425~~27]

If warranted: 1. Probation Monitoring Costs [~~2728~~30]
~~2. Ethics Continuing Education [3132]~~
~~3. Regulatory Review Course [3233]~~
4. Continuing Education Courses [36]
5. Administrative Penalty not to exceed maximum set forth in BPC section 5116 [43]

(Reference BPC Sectionsection 5076(a))

SECTION 46(a) DOCUMENT SUBMISSION REQUIREMENTS

Applies to firms that receive a substandard peer review rating.

Minimum Penalty – Continuing Education Courses [36]

Maximum Penalty – Revocation [1, 2]

CONDITIONS OF PROBATION:

Required: 1. If revocation stayed [4], 3 years probation
2. Standard Conditions of Probation [~~1516-2425~~27]

- If warranted:
1. Probation Monitoring Costs [~~272830~~]
 - ~~2. Ethics Continuing Education [3132]~~
 - ~~3. Regulatory Review Course [3233]~~
 4. Continuing Education Courses [36]
 5. Administrative Penalty not to exceed maximum set forth in BPC section 5116 [43]

(Reference BPC Sectionsection 5076(f))

SECTION 46(b) DOCUMENT SUBMISSION REQUIREMENTS

Applies to firms that receive a “pass” or “pass with deficiencies” peer review rating.

Minimum Penalty – Continuing Education Courses [36]

Maximum Penalty – Revocation [1, 2]

CONDITIONS OF PROBATION:

- Required:
1. If revocation stayed [4], 3 years probation
 2. Standard Conditions of Probation [~~1516-242527~~]

- If warranted:
1. Probation Monitoring Costs [~~272830~~]
 - ~~2. Ethics Continuing Education [3132]~~
 - ~~3. Regulatory Review Course [3233]~~
 4. Administrative Penalty not to exceed maximum set forth in BPC section 5116 [43]

ARTICLE 9: RULES OF PROFESSIONAL CONDUCT

SECTION 50 CLIENT NOTIFICATION

Minimum Penalty – Continuing Education Courses [36]

Maximum Penalty – Revocation stayed, suspension, 3 years probation [1-4]

CONDITIONS OF PROBATION:

- Required:
1. Standard Conditions of Probation [~~1516-242527~~]

- If warranted:
1. Suspension [3] with/without stay [4]
 2. Probation Monitoring Costs [~~272830~~]
 - ~~3. Ethics Continuing Education [3132]~~
 - ~~4. Regulatory Review Course [3233]~~
 5. Administrative Penalty not to exceed maximum set forth in BPC section 5116 [43]

Section 50.1 ATTEST CLIENT NOTIFICATION

Minimum Penalty – Continuing Education Courses [36] for California licensee partners or for licensee shareholders of corporation

Maximum Penalty – Revocation of partnership or corporate registration and individual licenses

CONDITIONS OF PROBATION:

- Required: 1. If revocation stayed [4], 3 years probation
 2. Standard Conditions of Probation [~~1516-2425~~27]

- If warranted: 1. Suspension [3] with/without stay [4]
 2. Probation Monitoring Costs [~~2728~~30]
 ~~3. Ethics Continuing Education [3132]~~
 ~~4. Regulatory Review Course [3233]~~
 ~~5~~3. Administrative Penalty not to maximum set forth in BPC section 5116 [43]

SECTION 51 FIRMS WITH NONLICENSEE OWNERS

Minimum Penalty – Continuing Education Courses [36] for California licensee partners or for licensee shareholders of corporation

Maximum Penalty – Revocation stayed, suspension, 3 years probation [1-4]

CONDITIONS OF PROBATION:

- Required: 1. Standard Conditions of Probation [~~1516-2425~~27]

- If warranted: 1. Suspension [3] with/without stay [4]
 2. Probation Monitoring Costs [~~2728~~30]
 3. Restricted Practice [~~2829~~31]
 ~~4. Ethics Continuing Education [3132]~~
 ~~5. Regulatory Review Course [3233]~~
 ~~6~~4. Administrative Penalty not to exceed maximum set forth in BPC section 5116 [43]

SECTION 51.1 NOTIFICATION OF NON-LICENSEE OWNERSHIP

Minimum Penalty – Continuing Education Courses [36] for California licensee partners or for licensee shareholders of corporation

Maximum Penalty – Revocation of partnership or corporate registration and individual licenses

CONDITIONS OF PROBATION:

- Required: 1. If revocation stayed [4], 3 years probation
 2. Standard Conditions of Probation [~~1516-2425~~27]

- If warranted: 1. Suspension [3] with/without stay [4]
 2. Probation Monitoring Costs [~~2728~~30]
 ~~3. Ethics Continuing Education [3132]~~
 ~~4. Regulatory Review Course [3233]~~
 ~~5~~3. Administrative Penalty not to exceed maximum set forth in BPC section 5116 [43]

(Reference BPC Sectionsection 5079)

SECTION 52 RESPONSE TO BOARD INQUIRY

Minimum Penalty – Continuing Education Courses [36]

Maximum Penalty – Revocation [1, 2]

CONDITIONS OF PROBATION:

Required: 1. If revocation stayed [4], 3 years probation
 2. Standard Conditions of Probation [~~1516-2425~~27]

If warranted: 1. Probation Monitoring Costs [~~2728~~30]
 ~~2. Ethics Continuing Education [3132]~~
 ~~3. Regulatory Review Course [3233]~~
 42. Continuing Education Courses [36]
 53. Community Service – Free Services [40]
 64. Administrative Penalty not to exceed maximum set forth in
 BPC section 5116 [43]

SECTION 53 DISCRIMINATION PROHIBITED

Minimum Penalty – Continuing Education Courses [36]

Maximum Penalty – Revocation stayed, 3 years probation [1, 2, 4]

CONDITIONS OF PROBATION:

Required: 1. Standard Conditions of Probation [~~1516-2425~~27]

If warranted: 1. Probation Monitoring Costs [~~2728~~30]
 ~~2. Ethics Continuing Education [3132]~~
 ~~3. Regulatory Review Course [3233]~~
 42. Continuing Education Courses [36]
 53. Administrative Penalty not to exceed maximum set forth in
 BPC section 5116 [43]

SECTION 54.1 DISCLOSURE OF CONFIDENTIAL INFORMATION PROHIBITED

Minimum Penalty – Continuing Education Courses [36]

Maximum Penalty – Revocation [1, 2]

CONDITIONS OF PROBATION:

Required: 1. If revocation stayed [4], 3 years probation
 2. Standard Conditions of Probation [~~1516-2425~~27]

If warranted: 1. Suspension [3] with/without stay [4]
 2. Supervised Practice [~~2526~~28]
 3. Probation Monitoring Costs [~~2728~~30]
 ~~4. Ethics Continuing Education [3132]~~
 ~~5. Regulatory Review Course [3233]~~
 64. Continuing Education Courses [36]
 75. Notice to Clients [42]

~~86.~~ Administrative Penalty not to exceed maximum set forth in BPC section 5116 [43]

(Reference BPC ~~Section~~section 5037)

SECTION 54.2 RECIPIENTS OF CONFIDENTIAL INFORMATION

Minimum Penalty – Continuing Education Courses [36]

Maximum Penalty – Revocation [1, 2]

CONDITIONS OF PROBATION:

Required: 1. If revocation stayed, [4], 3 years probation
2. Standard Conditions of Probation [~~1516-2425~~27]

If warranted: 1. Supervised Practice [~~2526~~28]
2. Probation Monitoring Costs [~~2728~~30]
~~3. Ethics Continuing Education [3132]~~
~~4. Regulatory Review Course [3233]~~
~~53.~~ Continuing Education Courses [36]
~~64.~~ Administrative Penalty not to exceed maximum set forth in BPC section 5116 [43]

SECTION 56 COMMISSIONS – BASIC DISCLOSURE REQUIREMENT

Minimum Penalty – Continuing Education Courses [36]

Maximum Penalty – Revocation [1, 2]

CONDITIONS OF PROBATION:

Required: 1. If revocation stayed [4], 3 years probation
2. Standard Conditions of Probation [~~1516-2425~~27]

If warranted: 1. Suspension [3] with/without stay [4]
2. Supervised Practice [~~2526~~28]
3. Restitution [~~2627~~29]
4. Probation Monitoring Costs [~~2728~~30]
5. Restricted Practice [~~2829~~31]
6. Engagement Letters [~~2930~~32]
~~7. Ethics Continuing Education [3132]~~
~~8. Regulatory Review Course [3233]~~
~~97.~~ Continuing Education Courses [36]
~~108.~~ Community Service – Free Services [40]
~~119.~~ Administrative Penalty not to exceed maximum set forth in BPC section 5116 [43]

SECTION 56.1 COMMISSIONS – PROFESSIONAL SERVICES PROVIDED TO CLIENT

Minimum Penalty – Continuing Education Courses [36]

Maximum Penalty – Revocation [1, 2]

CONDITIONS OF PROBATION:

- Required:
1. If revocation stayed [4], 3 years probation
 2. Standard Conditions of Probation [~~1516-2425~~27]

- If warranted:
1. Suspension [3] with/without stay [4]
 2. Supervised Practice [~~2526~~28]
 3. Restitution [~~2627~~29]
 4. Probation Monitoring Costs [~~2728~~30]
 5. Restricted Practice [~~2829~~31]
 - ~~6. Ethics Continuing Education [3132]~~
 - ~~7. Regulatory Review Course [3233]~~
 - ~~8. Continuing Education Courses [36]~~
 - ~~9. Administrative Penalty not to exceed maximum set forth in BPC section 5116 [43]~~

SECTION 57 INCOMPATIBLE OCCUPATIONS AND CONFLICT OF INTEREST

Minimum Penalty – Continuing Education Courses [36]

Maximum Penalty – Revocation [1, 2]

CONDITIONS OF PROBATION:

- Required:
1. If revocation stayed [4], 3 years probation
 2. Standard Conditions of Probation [~~1516-2425~~27]

- If warranted:
1. Suspension [3] with/without stay [4]
 2. Supervised Practice [~~2526~~28]
 3. Probation Monitoring Costs [~~2728~~30]
 4. Restricted Practice [~~2829~~31]
 5. Engagement Letters [~~2930~~32]
 6. Ethics Continuing Education [3132]
 - ~~7. Regulatory Review Course [3233]~~
 - ~~8. Continuing Education Courses [36]~~
 - ~~9. Prohibition from Handling Funds [39]~~
 - ~~10. Community Service – Free Services [40]~~
 - ~~11. Administrative Penalty not to exceed maximum set forth in BPC section 5116 [43]~~

SECTION 58 COMPLIANCE WITH STANDARDS

Minimum Penalty – Continuing Education Courses [36]

Maximum Penalty – Revocation [1, 2]

CONDITIONS OF PROBATION:

- Required:
1. If revocation stayed [4], 3 years probation
 2. Standard Conditions of Probation [~~1516-2425~~27]

- If warranted:
1. Suspension [3] with/without stay [4]

2. Supervised Practice [~~2526~~28]
3. Probation Monitoring Costs [~~2728~~30]
4. Restricted Practice [~~2829~~31]
5. Engagement Letters [~~2930~~32]
- ~~6. Ethics Continuing Education [3132]~~
- ~~7. Regulatory Review Course [3233]~~
- ~~86.~~ Peer Review [3334]
- ~~97.~~ CPA Exam [3435]
- ~~108.~~ Continuing Education Courses [36]
- ~~149.~~ Samples - Audit, Review or Compilation [38]
- ~~1210.~~ Administrative Penalty not to exceed maximum set forth in BPC section 5116 [43]

SECTION 59 REPORTING OF RESTATEMENTS

Minimum Penalty – Continuing Education Courses [36]

Maximum Penalty – Revocation [1, 2]

CONDITIONS OF PROBATION:

- Required:
1. If revocation stayed [4], 3 years probation
 2. Standard Conditions of Probation [~~1516-2425~~27]

- If warranted:
1. Suspension [3] with/without stay [4]
 2. Supervised Practice [~~2526~~28]
 3. Probation Monitoring Costs [~~2728~~30]
 4. Restricted Practice [~~2829~~31]
 - ~~5. Ethics Continuing Education [3132]~~
 - ~~6. Regulatory Review Course [3233]~~
 - ~~75.~~ Continuing Education Courses [36]
 - ~~86.~~ Community Service – Free Services [40]
 - ~~97.~~ Administrative Penalty not to exceed maximum set forth in BPC section 5116 [43]

(Reference BPC Sectionsection 5063)

SECTION 60 REPORTING OF INVESTIGATIONS BY THE PUBLIC COMPANY ACCOUNTING OVERSIGHT BOARD

Minimum Penalty – Continuing Education Courses [36]

Maximum Penalty – Revocation [1, 2]

CONDITIONS OF PROBATION

- Required:
1. If revocation stayed [4], 3 years probation
 2. Standard Conditions of Probation [~~1516-2425~~27]

- If warranted:
1. Suspension [3] with/without stay [4]
 2. Supervised Practice [~~2526~~28]
 3. Probation Monitoring Costs [~~2728~~30]

- 4. Restricted Practice [~~2829~~31]
- 5. ~~Ethics Continuing Education [3132]~~
- 6. ~~Regulatory Review Course [3233]~~
- 75. Continuing Education Courses [36]
- 86. Community Service – Free Services [40]
- 97. Administrative Penalty not to exceed maximum set forth in BPC section 5116 [43]

(Reference BPC ~~Section~~section 5063)

SECTION 61 THE REPORTING OF SETTLEMENTS, ARBITRATION AWARDS, AND JUDGMENTS

Minimum Penalty – Continuing Education Courses [36]

Maximum Penalty – Revocation [1, 2]

CONDITIONS OF PROBATION:

- Required:
- 1. If revocation stayed [4], 3 years probation
 - 2. Standard Conditions of Probation [~~1516-2425~~27]

- If warranted:
- 1. Suspension [3] with/without stay [4]
 - 2. Supervised Practice [~~2526~~28]
 - 3. Probation Monitoring Costs [~~2728~~30]
 - 4. Restricted Practice [~~2829~~31]
 - 5. Engagement Letters [~~2930~~32]
 - 6. ~~Ethics Continuing Education [3132]~~
 - 7. ~~Regulatory Review Course [3233]~~
 - 86. Continuing Education Courses [36]
 - 97. Community Service – Free Services [40]
 - 108. Administrative Penalty not to exceed maximum set forth in BPC section 5116 [43]

(Reference BPC ~~Section~~section 5063)

SECTION 62 CONTINGENT FEES

Minimum Penalty – Continuing Education Courses [36]

Maximum Penalty – Revocation [1, 2]

CONDITIONS OF PROBATION:

- Required:
- 1. If revocation stayed [~~1, 2, 4~~], 3 years probation [1, 2, 4]
 - 2. Standard Conditions of Probation [~~1516-2425~~27]

- If warranted:
- 1. Suspension [3] with/without stay [4]
 - 2. Supervised Practice [~~2526~~28]
 - 3. Restitution [~~2627~~29]
 - 4. Probation Monitoring Costs [~~2728~~30]
 - 5. Restricted Practice [~~2829~~31]

- 6. Engagement Letters [~~2930~~32]
- ~~7. Ethics Continuing Education [3132]~~
- ~~8. Regulatory Review Course [3233]~~
- ~~9~~7. Continuing Education Courses [36]
- ~~10~~8. Community Service – Free Services [40]
- ~~11~~9. Administrative Penalty not to exceed maximum set forth in BPC section 5116 [43]

SECTION 63 ADVERTISING

Minimum Penalty – Continuing Education Courses [36]
 Maximum Penalty – Revocation [1, 2]

CONDITIONS OF PROBATION:

- Required:
- 1. If revocation stayed [4], 3 years probation
 - 2. Standard Conditions of Probation [~~1516-2425~~27]

- If warranted:
- 1. Suspension [3] with/without stay [4]
 - 2. Probation Monitoring Costs [~~2728~~30]
 - ~~3. Ethics Continuing Education [3132]~~
 - ~~4. Regulatory Review Course [33]~~
 - ~~5~~3. Community Service – Free Services [40]
 - ~~6~~4. Administrative Penalty not to exceed maximum set forth in BPC section 5116 [43]

SECTION 65 INDEPENDENCE

Minimum Penalty – Revocation stayed [~~1,2,4~~], 3 years of probation [1, 2, 4]
 Maximum Penalty – Revocation [1, 2]

CONDITIONS OF PROBATION:

- Required:
- 1. If revocation stayed [4], probation of 3 to 5 years
 - 2. Standard Conditions of Probation [~~1516-2425~~27]

- If warranted:
- 1. Suspension [3] with/without stay [4]
 - 2. Supervised Practice [~~2526~~28]
 - 3. Restitution [~~2627~~29]
 - 4. Probation Monitoring Costs [~~2728~~30]
 - 5. Restricted Practice [~~2829~~31]
 - 6. Engagement Letters [~~2930~~32]
 - ~~7. Ethics Continuing Education [3132]~~
 - ~~8. Regulatory Review Course [33]~~
 - ~~9~~7. Peer Review [~~3334~~]
 - ~~10~~8. CPA Exam [~~3435~~]
 - ~~11~~9. Samples - Audit, Review or Compilation [38]
 - ~~12~~10. Administrative Penalty not to exceed maximum set forth in BPC section 5116 [43]

SECTION 67 APPROVAL OF USE OF FICTITIOUS NAME

Minimum Penalty – Continuing Education Courses [36]

Maximum Penalty – Revocation stayed, 90 day suspension, 3 years probation [1-4]

CONDITIONS OF PROBATION:

Required: 1. Standard Conditions of Probation [~~1516-2425~~27]

If warranted:

1. Probation Monitoring Costs [~~2728~~30]
- ~~2. Ethics Continuing Education [3132]~~
- ~~3. Regulatory Review Course [33]~~
4. Community Service – Free Services [40]
5. Administrative Penalty not to exceed maximum set forth in BPC section 5116 [43]

SECTION 68 RETENTION OF CLIENT'S RECORDS

Minimum Penalty – Continuing Education Courses [36]

Maximum Penalty – Revocation [1, 2]

CONDITIONS OF PROBATION:

Required:

1. If revocation stayed [~~1, 2, 4~~], 3 years probation [1, 2, 4]
2. Standard Conditions of Probation [~~1516-2425~~27]

If warranted:

1. Suspension [3] with/without stay [4]
2. Supervised Practice [~~2526~~28]
3. Restitution [~~2627~~29]
4. Probation Monitoring Costs [~~2728~~30]
5. Restricted Practice [~~2829~~31]
6. Engagement Letters [~~2930~~32]
- ~~7. Ethics Continuing Education [3132]~~
- ~~8. Regulatory Review Course [33]~~
9. Continuing Education Courses [36]
- ~~10~~. Community Service – Free Services [40]
- ~~11~~. Administrative Penalty not to exceed maximum set forth in BPC section 5116 [43]
- ~~12~~10. Conditions as appropriate relating to physical or mental disability or condition [44-49]

(Reference BPC Sectionsection 5037)

SECTION 68.1 WORKING PAPERS DEFINED; RETENTION

Minimum Penalty – Continuing Education Courses [36]

Maximum Penalty – Revocation [1, 2]

CONDITIONS OF PROBATION:

Required: 1. If revocation stayed [4], 3 years probation

2. Standard Conditions of Probation [~~1516-2425~~27]

- If warranted:
1. Suspension [3] with/without stay [4]
 2. Restitution [~~2627~~29]
 3. Probation Monitoring Costs [~~2728~~30]
 4. Restricted Practice [~~2829~~31]
 5. Engagement Letters [~~2930~~32]
 - ~~6. Ethics Continuing Education [3132]~~
 - ~~7. Regulatory Review Course [33]~~
 - ~~86.~~ Continuing Education Courses [36]
 - ~~97.~~ Community Service – Free Services [40]
 - ~~108.~~ Administrative Penalty not to exceed maximum set forth in BPC section 5116 [43]
 - ~~149.~~ Conditions as appropriate relating to physical or mental disability or condition [44-49]

SECTION 68.2 COMPONENTS OF AUDIT DOCUMENTATION

Minimum Penalty – Continuing Education Courses [36]
Maximum Penalty – Revocation [1, 2]

CONDITIONS OF PROBATION:

- Required:
1. If revocation stayed [4], 3 years probation
 2. Standard Conditions of Probation [~~1516-2425~~27]
 3. Continuing Education Courses [36]

- If warranted:
1. Suspension [3] with/without stay [4]
 2. Supervised Practice [~~2526~~28]
 3. Probation Monitoring Costs [~~2728~~30]
 4. Restricted Practice [~~2829~~31]
 - ~~5. Ethics Continuing Education [3132]~~
 - ~~6. Regulatory Review Course [33]~~
 - ~~75.~~ Peer Review [3334]
 - ~~86.~~ CPA Exam [3335]
 - ~~97.~~ Samples - Audits, Review or Compilation [38]
 - ~~108.~~ Community Service – Free Services [40]
 - ~~149.~~ Notice to Clients [42]
 - ~~1210.~~ Administrative Penalty not to exceed maximum set forth in BPC section 5116 [43]

(Reference BPC Sectionsection 5097)

SECTION 68.3 RETENTION PERIOD FOR AUDIT DOCUMENTATION

Minimum Penalty – Continuing Education Courses [36]
Maximum Penalty – Revocation [1, 2]

CONDITIONS OF PROBATION:

- Required:
1. If revocation stayed [4], 3 years probation
 2. Standard Conditions of Probation [~~1516-2425~~27]
 3. Continuing Education Courses [36]
- If warranted:
1. Suspension [3] with/without stay [4]
 2. Supervised Practice [~~2526~~28]
 3. Probation Monitoring Costs [~~2728~~30]
 4. Restricted Practice [~~2829~~31]
 5. Library Reference Materials [~~3031~~33]
 - ~~6. Ethics Continuing Education [3132]~~
 - ~~7. Regulatory Review Course [33]~~
 - ~~86.~~ Peer Review [3334]
 - ~~97.~~ CPA Exam [3435]
 - ~~108.~~ Samples - Audits, Review or Compilation [38]
 - ~~149.~~ Community Service – Free Services [40]
 - ~~1210.~~ Notice to Clients [42]
 - ~~1311.~~ Administrative Penalty not to exceed maximum set forth in BPC section 5116 [43]

(Reference BCP Sectionsection 5097)

SECTION 68.4 CHANGES IN AUDIT DOCUMENTATION AFTER ISSUANCE OF REPORT

Minimum Penalty – Continuing Education Courses [36]
Maximum Penalty – Revocation [1, 2]

CONDITIONS OF PROBATION:

- Required:
1. If revocation stayed [4], 3 years probation
 2. Standard Conditions of Probation [~~1516-2425~~27]
 3. Continuing Education Courses [36]
- If warranted:
1. Suspension [3] with/without stay [4]
 2. Supervised Practice [~~2526~~28]
 3. Probation Monitoring Costs [~~2728~~30]
 4. Restricted Practice [~~2829~~31]
 5. Library Reference Materials [~~3031~~33]
 - ~~6. Ethics Continuing Education [3132]~~
 - ~~7. Regulatory Review Course [33]~~
 - ~~86.~~ Peer Review [3334]
 - ~~97.~~ CPA Exam [3435]
 - ~~108.~~ Samples - Audits, Review or Compilation [38]
 - ~~149.~~ Community Service – Free Services [40]
 - ~~1210.~~ Notice to Clients [42]
 - ~~1311.~~ Administrative Penalty not to exceed maximum set forth in BPC section 5116 [43]

(Reference BPC section 5097)

**SECTION 68.5 AUDIT DOCUMENTATION
RETENTION AND DESTRUCTION POLICY**

Minimum Penalty – Continuing Education Courses [36]
Maximum Penalty – Revocation [1, 2]

CONDITIONS OF PROBATION:

- Required:
1. If revocation stayed [4], 3 years probation
 2. Standard Conditions of Probation [~~1516-2425~~27]
 3. Continuing Education Courses [36]
- If warranted:
1. Suspension [3] with/without stay [4]
 2. Supervised Practice [~~2526~~28]
 3. Probation Monitoring Costs [~~2728~~30]
 4. Restricted Practice [~~2829~~31]
 5. Library Reference Materials [~~3031~~33]
 - ~~6. Ethics Continuing Education [3132]~~
 - ~~7. Regulatory Review Course [33]~~
 - ~~8~~6. Peer Review [~~3334~~]
 - ~~9~~7. CPA Exam [~~3435~~]
 - ~~10~~8. Samples - Audits, Review or Compilation [38]
 - ~~11~~9. Community Service – Free Services [40]
 - ~~12~~10. Notice to Clients [42]
 - ~~13~~11. Administrative Penalty not to exceed maximum set forth in BPC section 5116 [43]

(Reference BPC Section ~~section~~ 5097)

SECTION 69 CERTIFICATION OF APPLICANT'S EXPERIENCE

Minimum Penalty – Continuing Education Courses [36]
Maximum Penalty – Revocation [1, 2]

CONDITIONS OF PROBATION:

- Required:
1. If revocation stayed [4], 3 years probation
 2. Standard Conditions of Probation [~~1516-2425~~27]
- If warranted:
1. Suspension [3] with/without stay [4]
 2. Supervised Practice [~~2526~~28]
 3. Probation Monitoring Costs [~~2728~~30]
 4. Ethics Continuing Education [3132]
 5. Regulatory Review Course [33]
 - ~~6~~4. Community Service – Free Services [40]
 - ~~7~~5. Administrative Penalty not to exceed maximum set forth in BPC section 5116 [46]

ARTICLE 11: ACCOUNTANCY CORPORATION RULES

SECTION 75.8 SECURITY FOR CLAIMS AGAINST AN ACCOUNTANCY CORPORATION

Minimum Penalty – Continuing Education Courses [36] for licensee directors, shareholders, and/or officers of corporation

Maximum Penalty – Revocation [1, 2]

CONDITIONS OF PROBATION:

Required: 1. If revocation stayed [4], probation of 3 to 5 years
2. Standard Conditions of Probation [~~1516-2425~~27]

If warranted: 1. Supervised Practice [~~2526~~28]
2. Restitution [~~2627~~29]
3. Probation Monitoring Costs [~~2728~~30]
4. Restricted Practice [~~2829~~31]
~~5. Ethics Continuing Education [3132]~~
~~6. Regulatory Review Course [33]~~
7. Continuing Education Courses [36]
8. Samples - Audit, Review or Compilation [38]
9. Prohibition from Handling Funds [39]
~~10. Community Service – Free Services [40]~~
~~11. Notification to Clients [42]~~
~~12. Administrative Penalty not to exceed maximum set forth in BPC section 5116 [43]~~

SECTION 75.9 SHARES: OWNERSHIP AND TRANSFER

Minimum Penalty – Continuing Education Courses [36] for licensee directors, shareholders, and/or officers of corporation

Maximum Penalty – Revocation of corporate registration [1, 2] and discipline of individual licenses

CONDITIONS OF PROBATION:

Required: 1. If revocation stayed [4], 3 years probation
2. Standard Conditions of Probation [~~1516-2425~~27]

If warranted: 1. Suspension [3] with/without stay [4]
2. Probation Monitoring Costs [~~2728~~30]
3. Restricted Practice [~~2829~~31]
~~4. Ethics Continuing Education [3132]~~
~~5. Regulatory Review Course [33]~~
6. Administrative Penalty not to exceed maximum set forth in BPC section 5116 [43]

**SECTION 75.11(b) CERTIFICATION OF REGISTRATION; CONTINUING VALIDITY;
NOTIFICATION OF NAME AND ADDRESS CHANGES**

Minimum Penalty – Continuing Education Courses [36] for licensee directors, shareholders, and/or officers of corporation

Maximum Penalty – Suspend corporate accountancy registration and/or individual licensees for 90 days [3]

CONDITIONS OF PROBATION:

Required: 1. Standard Conditions of Probation [~~1516-2425~~27]

If warranted: 1. Suspension [3] with/without stay [4]
2. Restricted Practice [~~2829~~31]
~~3. Ethics Continuing Education [3132]~~
~~4. Regulatory Review Course [33]~~
~~5~~3. Administrative Penalty not to exceed maximum set forth in BPC section 5116 [43]

ARTICLE 12: CONTINUING EDUCATION RULES

Section 80 INACTIVE LICENSE STATUS

Minimum Penalty – Continuing Education Courses [36]

Maximum Penalty – Revocation [1, 2]

CONDITIONS OF PROBATION:

Required: 1. If revocation stayed [4], 3 years probation
2. Standard Conditions of Probation [~~1516-2425~~27]

If warranted: 1. Suspension [3] with/without stay [4]
2. Probation Monitoring Costs [~~2728~~30]
3. Restricted Practice [~~2829~~31]
~~4. Ethics Continuing Education [3132]~~
~~5. Regulatory Review Course [33]~~
~~6~~4. Continuing Education Courses [36]
~~7~~5. Active License Status [37]
~~8~~6. Administrative Penalty not to exceed maximum set forth in BPC section 5116 [43]

SECTION 81(a) CONTINUING EDUCATION REQUIREMENTS FOR RENEWING AN EXPIRED LICENSE

Minimum Penalty – Continuing Education Courses [36]

Maximum Penalty – Revocation [1, 2]

CONDITIONS OF PROBATION:

Required: 1. If revocation stayed [4], 3 years probation
2. Standard Conditions of Probation [~~1516-2425~~27]

- If warranted:
1. Suspension [3] with/without stay [4]
 2. Supervised Practice [~~25~~~~26~~~~28~~]
 3. Probation Monitoring Costs [~~27~~~~28~~~~30~~]
 4. Restricted Practice [~~28~~~~29~~~~31~~]
 - ~~5. Ethics Continuing Education [3132]~~
 - ~~6. Regulatory Review Course [33]~~
 - ~~7~~5. Continuing Education Courses [36]
 - ~~8~~6. Samples – Audit, Review or Compilation [38]
 - ~~9~~7. Administrative Penalty not to exceed maximum set forth in BPC section 5116 [43]

SECTION 87 BASIC REQUIREMENTS (Continuing Education)

Minimum Penalty – Continuing Education Courses [36]
 Maximum Penalty – Revocation [1, 2]

CONDITIONS OF PROBATION:

- Required:
1. If revocation stayed [4], 3 years probation
 2. Standard Conditions of Probation [~~15~~~~16~~-~~24~~~~25~~~~27~~]

- If warranted:
1. Suspension [3] with/without stay [4]
 2. Supervised Practice [~~25~~~~26~~~~28~~]
 3. Probation Monitoring Costs [~~27~~~~28~~~~30~~]
 4. Restricted Practice [~~28~~~~29~~~~31~~]
 - ~~5. Ethics Continuing Education [3132]~~
 - ~~6. Regulatory Review Course [33]~~
 - ~~7~~5. Continuing Education Courses [36]
 - ~~8~~6. Samples – Audit, Review or Compilation [38]
 - ~~9~~7. Administrative Penalty not to exceed maximum set forth in BPC section 5116 [43]

SECTION 87.5 ADDITIONAL CONTINUING EDUCATION REQUIREMENTS

Minimum Penalty – Continuing Education Courses [~~25~~~~36~~]
 Maximum Penalty – Revocation stayed, 3 years probation [1, 2, 4]

CONDITIONS OF PROBATION:

- Required:
1. Standard Conditions of Probation [~~15~~~~16~~-~~24~~~~25~~~~27~~]

- If warranted:
1. Probation Monitoring Costs [~~27~~~~28~~~~30~~]
 - ~~2. Ethics Continuing Education [3132]~~
 3. Regulatory Review Course [33]
 - ~~4~~2. Continuing Education Courses [36]
 - ~~5~~3. Active License Status [37]
 - ~~6~~4. Samples - Audit, Review or Compilation [38]
 - ~~7~~5. Administrative Penalty not to exceed maximum set forth in BPC section 5116 [43]

**SECTION 87.6 RECORDS REVIEW
CONTINUING EDUCATION REQUIREMENTS**

Minimum Penalty – Continuing Education Courses [36]
Maximum Penalty – Revocation stayed, 3 years probation [1, 2, 4]

CONDITIONS OF PROBATION:

Required: 1. Standard Conditions of Probation [~~1516-2425~~27]

If warranted: 1. Probation Monitoring Costs [~~2728~~30]
~~2. Ethics Continuing Education [3132]~~
~~3. Regulatory Review Course [33]~~
4. Continuing Education Courses [36]
~~5. Samples - Audit, Review or Compilation [38]~~
~~6. Administrative Penalty not to exceed maximum set forth in
BPC section 5116 [43]~~

SECTION 87.8 REGULATORY REVIEW COURSE

Minimum Penalty – Continuing Education Courses [36]
Maximum Penalty – Revocation stayed, 3 years probation [1, 2, 4]

CONDITIONS OF PROBATION:

Required: 1. Standard Conditions of Probation [~~1516-2425~~27]

If warranted: 1. Probation Monitoring Costs [~~2728~~30]
~~2. Ethics Continuing Education [3132]~~
~~3. Continuing Education Courses [36]~~
4. Administrative Penalty not to exceed maximum set forth in
BPC section 5116 [43]

SECTION 89 CONTROL AND REPORTING

Minimum Penalty – Continuing Education Courses [36]
Maximum Penalty – Revocation [1, 2]

CONDITIONS OF PROBATION:

Required: 1. If revocation stayed [4], 3 years probation
2. Standard Conditions of Probation [~~1516-2425~~27]

If warranted: 1. Probation Monitoring Costs [~~2728~~30]
~~2. Ethics Continuing Education [3132]~~
~~3. Regulatory Review Course [33]~~
4. Continuing Education Courses [36]
~~5. Administrative Penalty not to exceed maximum set forth in
BPC section 5116 [43]~~

SECTION 89.1 REPORTS

Minimum Penalty – Continuing Education Courses [36]

Maximum Penalty – Revocation stayed, 3 years probation [1, 2, 4]

CONDITIONS OF PROBATION:

Required: 1. Standard Conditions of Probation [~~1516-2425~~27]

If warranted:

1. Probation Monitoring Costs [~~2728~~30]
- ~~2. Ethics Continuing Education [3132]~~
- ~~3. Regulatory Review Course [33]~~
4. Continuing Education Courses [36]
5. Samples - Audit, Review or Compilation [38]
6. Administrative Penalty not to exceed maximum set forth in BPC section 5116 [43]

SECTION 90 EXCEPTIONS AND EXTENSIONS

Minimum Penalty – Continuing Education Courses [36]

Maximum Penalty – Revocation [1, 2]

CONDITIONS OF PROBATION:

Required:

1. If revocation stayed [4] 3 years probation
2. Standard Conditions of Probation [~~1516-2425~~27]

If warranted:

1. Suspension [3] with/without stay [4]
2. Supervised Practice [~~2526~~28]
3. Probation Monitoring Costs [~~2728~~30]
4. Restricted Practice [~~2829~~31]
- ~~5. Ethics Continuing Education [3132]~~
- ~~6. Regulatory Review Course [33]~~
7. Continuing Education Courses [36]
8. Samples – Audit, Review or Compilation [38]
9. Administrative Penalty not to exceed maximum set forth in BPC section 5116 [43]

ARTICLE 12.5: CITATIONS AND FINES

SECTION 95.4 FAILURE TO COMPLY WITH CITATION

Minimum Penalty – Compliance with Citation Abatement Order and/or Fine as issued

Maximum Penalty – Revocation stayed, 3 years probation [1, 2, 4]

CONDITIONS OF PROBATION:

Required:

1. Standard Conditions of Probation [~~1516-2425~~27]
2. Restitution [~~2627~~29]
3. Compliance with Citation Abatement Order and/or Fine

- If warranted:
1. Probation Monitoring Costs [~~272830~~]
 2. Administrative Penalty not to exceed maximum set forth in BPC section 5116 [43]

VIOLATION OF PROBATION

Minimum penalty - Citation and Fine (19)

Maximum penalty - Vacate stay order and impose penalty that was previously stayed; and/or revoke, separately and severally, for violation of probation and/or for any additional offenses. [1-4]

~~California Code of Regulations~~ CCR section 95 provides the authority for the Executive Officer to issue citations and fines from \$100 to \$5000 to a licensee for violation of a term or condition contained in a decision placing that licensee on probation.

The maximum penalty is appropriate for repeated **similar** offenses, or for probation violations indicating a cavalier or recalcitrant attitude. If the probation violation is due in part to the commission of additional offense(s), additional penalties shall be imposed according to the nature of the offense; and the probation violation shall be considered as an aggravating factor in imposing a penalty for those offenses.

UNLICENSED ACTIVITIES

If any unlicensed individual or firm violates, or is suspected of violating, any of the following Business and Professions Code sections, the matter may be referred to the Division of Investigation and if the allegation is confirmed, to the District Attorney or other appropriate law enforcement officer for prosecution.

Section 5050
Section 5051
Section 5055

Section 5056
Section 5058
Section 5071

Section 5072
Section 5088

CCR section 95.6 also provides the authority for the Executive Officer to issue citations and fines from \$100 to \$5000 and an order of abatement against any person defined in Business and Professions Code section 5035 who is acting in the capacity of a licensee under the jurisdiction of the CBA.

BPC section 5120 provides that any person who violates any provisions of Article 3 is guilty of a misdemeanor and can be imprisoned for not more than 6 months or assessed a fine of not more than \$1,000 or both. Injunctions may be requested (see BPC section 5122 immediately following).

INJUNCTIONS

BPC Section~~section~~ 5122 provides that "Whenever in the judgment of the board, (or with its approval, in the judgment of the enforcement advisory committee), any person has engaged, or is about to engage, in any acts or practices that ~~which~~ constitute, or will constitute, an offense against this chapter, the board may make application to the appropriate court for an order enjoining the acts or practices, and upon showing by the board that the person has engaged, or is about to engage, in any such acts or practices, an injunction, restraining order,

or ~~such~~ other order that may be appropriate shall be granted by the court." This section applies to licensees and unlicensed persons.

VIII. MODEL ORDERS

LICENSEES

1. Revocation - Single Cause:

_____ License No. _____ issued
(Ex: Certified Public Accountant) (Ex: 00000)

to ~~respondent~~ Respondent _____ is revoked.
(Name)

2. Revocation - Multiple Causes:

_____ License No. _____ issued to ~~respondent~~ Respondent _____ is
revoked pursuant to Determination(s) of Issues _____ separately and for all of
them.

3. Suspension:

_____ License No. _____ issued to ~~respondent~~ Respondent _____ is
suspended for _____. During the period of suspension the ~~respondent~~ Respondent
shall engage in no activities for which certification as a Certified Public Accountant or Public
Accountant is required as described in Business and Professions Code, Division 3, Chapter
1, ~~Section~~ section 5051.

4. Standard Stay Order:

However, _____ (revocation/suspension) _____ is stayed and ~~respondent~~ Respondent is
placed on probation for _____ years upon the following terms and conditions:

ORDER OF RESTRICTED PRACTICE

5. Permanent Restricted Practice Order (to be placed after any probationary order):

After the period of probation set forth above is successfully completed, it is further ordered that Respondent shall be prohibited from (performing certain types of engagements such as audits, reviews, compilations, or other attestation engagements, etc.), and/or from practice in (certain specialty areas, e.g. bookkeeping, write-up, tax, auditing, etc.). Respondent shall be prohibited from performing the above mentioned services permanently or until such time as Respondent successfully petitions the CBA for reinstatement of the privilege to engage in any of the service(s) or act(s) restricted by this Order.

(Note: This restriction is authorized by Business and Professions Code section 5100.5. It should be used where the violation involves unprofessional conduct in the performance or failure to perform particular accountancy acts or services or where serious or repeated violations in a particular practice area are found and revocation is not warranted.)

PETITIONS FOR REINSTATEMENT

56. Grant petition without restrictions on the license:

Upon satisfaction of all statutory and regulatory requirements for the issuance of a license, ~~The~~ the petition for reinstatement filed by _____ is hereby granted and Petitioner's certificate shall be fully restored.

67. Grant petition and place license on probation:

Upon satisfaction of all statutory and regulatory requirements for issuance of a license, ~~The~~ the petition for reinstatement filed by _____ is hereby granted. Petitioner's certificate shall be fully restored. However, the certificate shall then be immediately revoked, the revocation shall be stayed, and petitioner shall be placed on probation for ___ years upon the following terms and conditions (*list standard and applicable optional conditions of probation*):

78. Grant petition and place license on probation after petitioner completes conditions precedent to reinstatement of the license:

The petition for reinstatement filed by _____ is hereby granted and Petitioner's certificate shall be fully reinstated upon the following conditions precedent (*list conditions precedent such as restitution, cost reimbursement, completion of CE, completion of rehabilitation program, take and pass CPA/Enrolled Agents exam, etc.*):

Upon completion of the conditions precedent above and satisfaction of all statutory and regulatory requirements for issuance of a license, Petitioner's certificate shall be reinstated. Upon reinstatement, Petitioner's certificate shall be revoked. However, said revocation shall be stayed and Petitioner shall be placed on probation for a period of ___ years under the following terms and conditions (*list standard and applicable optional conditions of probation*):

89. Deny Petition:

The petition for reinstatement filed by _____ is hereby denied. Option: In accordance with Section 5115(a) of the Business and Professions Code (BPC), Petitioner may file a new petition for reinstatement only after ___ years have elapsed from the effective date of this decision.

Note: (3 years maximum)

Note: ~~Business and Professions Code~~ BPC section 5115 also allows a person to file a petition for a reduction in penalty.

PETITION FOR REVOCATION OF PROBATION

910. Revocation of Probation:

Certified Public Accountant Certificate No. _____, heretofore issued to Respondent _____, is revoked.

1011. Continuance of Probation:

However, revocation is stayed and ~~respondent~~ Respondent is placed on probation for a period of years upon the following terms and conditions:

APPLICANTS

1112. Grant application without restrictions on the license:

The application of ~~respondent~~ Respondent _____ for initial licensure is hereby granted and a license shall be issued to ~~respondent~~ Respondent upon successful completion of all licensing requirements including payment of all fees.

1213. Grant application and place license on probation:

The application of ~~respondent~~ Respondent _____ for initial licensure is hereby granted and a license shall be issued to ~~respondent~~ Respondent upon successful completion of all licensing requirements including payment of all fees. Said license shall immediately be revoked, the order of revocation stayed and ~~respondent's~~ Respondent's license placed on probation for a period of _____ years on the following conditions:

1314. Grant application and place license on probation after applicant completes conditions precedent to reinstatement of the license:

The application filed by _____ for initial licensure is hereby granted and a license shall be issued upon the following conditions precedent (*list conditions precedent such as restitution, cost reimbursement, completion of CE, completion of rehabilitation program, take and pass CPA/Enrolled Agents exam, etc.*):

Upon completion of the conditions precedent above and successful completion of all licensing requirements, Respondent shall be issued a license. However, the license shall be immediately revoked, and Respondent shall be placed on probation for a period of _____ years under the following terms and conditions (*list standard and applicable optional conditions of probation*):

1415. Deny Application:

The application of Respondent _____ for initial licensure is hereby denied.

STANDARD CONDITIONS OF PROBATION (TO BE INCLUDED IN ALL CASES OF PROBATION)

4516. Obey All Laws

Respondent shall obey all federal, California, other states' and local laws, including those rules relating to the practice of public accountancy in California.

4617. Cost Reimbursement

Respondent shall reimburse the ~~Board~~ CBA \$ _____ for its investigation and prosecution costs. The payment shall be made within __ days/months of the date the ~~Board's~~CBA's decision is final.

Option: The payment shall be made as follows: _____ [specify either prior to the resumption of practice or in quarterly payments (due with quarterly written reports), the final payment being due one year before probation is scheduled to terminate].

4718. Submit Written Reports

Respondent shall submit, within 10 days of completion of the quarter, written reports to the ~~Board~~ California Board of Accountancy (CBA) on a form obtained from the ~~Board~~ CBA. The ~~respondent~~Respondent shall submit, under penalty of perjury, such other written reports, declarations, and verification of actions as are required. These declarations shall contain statements relative to ~~respondent's~~Respondent's compliance with all the terms and conditions of probation. Respondent shall immediately execute all release of information forms as may be required by the ~~Board~~ CBA or its representatives.

4819. Personal Appearances

Respondent shall, during the period of probation, appear in person at interviews/meetings as directed by the ~~Board~~ California Board of Accountancy or its designated representatives, provided such notification is accomplished in a timely manner.

4920. Comply With Probation

Respondent shall fully comply with the terms and conditions of the probation imposed by the ~~Board~~ California Board of Accountancy (CBA) and shall cooperate fully with representatives of the ~~California Board of Accountancy~~ CBA in its monitoring and investigation of the ~~respondent's~~Respondent's compliance with probation terms and conditions.

2021. Practice Investigation

Respondent shall be subject to, and shall permit, a practice investigation of the ~~respondent's~~Respondent's professional practice. Such a practice investigation shall be conducted by representatives of the ~~Board~~ California Board of Accountancy, provided notification of such review is accomplished in a timely manner.

2122. Comply With Citations

Respondent shall comply with all final orders resulting from citations issued by the California Board of Accountancy.

2223. Tolling of Probation for Out-of-State Residence/Practice

In the event ~~respondent~~Respondent should leave California to reside or practice outside this state, ~~respondent~~Respondent must notify the ~~Board~~ California Board of Accountancy (CBA) in writing of the dates of departure and return. Periods of non-California residency or practice outside the state shall not apply to reduction of the probationary period, or of any suspension. No obligation imposed herein, including requirements to file written reports, reimburse the ~~Board~~ CBA costs, and make restitution to consumers, shall be suspended or otherwise affected by such periods of out-of-state residency or practice except at the written direction of the CBA.

2324. Violation of Probation

If ~~respondent~~Respondent violates probation in any respect, the ~~Board~~ California Board of Accountancy (CBA), after giving ~~respondent~~Respondent notice and an opportunity to be heard, may revoke probation and carry out the disciplinary order that was stayed. If an accusation or a petition to revoke probation is filed against ~~respondent~~Respondent during probation, the CBA shall have continuing jurisdiction until the matter is final, and the period of probation shall be extended until the matter is final.

The CBA's Executive Officer may issue a citation under California Code of Regulations, ~~Section~~section 95, to a licensee for a violation of a term or condition contained in a decision placing that licensee on probation.

2425. Completion of Probation

Upon successful completion of probation, ~~respondent's~~Respondent's license will be fully restored, unless the California Board of Accountancy has ordered that Respondent's license be permanently restricted or limited even after probation has been completed.

2526. Ethics Continuing Education

Within (a specified time period (e.g. one year)) of the effective date of the Order or Prior to the resumption of practice (where the license has been suspended), Respondent shall complete four hours of continuing education in course subject matter pertaining to the following: a review of nationally recognized codes of conduct emphasizing how the codes relate to professional responsibilities; case-based instruction focusing on real-life situational learning; ethical dilemmas facing the accounting profession; or business ethics, ethical sensitivity, and consumer expectations. Courses must be a minimum of one hour as described in California Code of Regulations section 88.2.

If Respondent fails to complete said courses within the time period provided, Respondent shall so notify the California Board of Accountancy (CBA) and shall cease practice until Respondent completes said courses, has submitted proof of same to the CBA, and has been notified by the CBA that he or she may resume practice. Failure to complete the required courses within the time period provided shall constitute a violation of probation. This shall be in addition to continuing education requirements for relicensing.

2627. Regulatory Review Course

Within (a specified time period (e.g. 180 days)) of the effective date of the Order or Prior to the resumption of practice (where the license has been suspended), Respondent shall complete a California Board of Accountancy (CBA)- approved course on the provisions of the California Accountancy Act and the (CBA) Regulations specific to the practice of public accountancy in California emphasizing the provisions applicable to current practice situations. The course also will include an overview of historic and recent disciplinary actions taken by the CBA, highlighting the misconduct which led to licensees being disciplined.

If Respondent fails to complete said courses within the time period provided, Respondent shall so notify the CBA and shall cease practice until Respondent completes said courses, has submitted proof of same to the CBA, and has been notified by the CBA that he or she may resume practice. Failure to complete the required courses within the time period provided shall constitute a violation of probation. This shall be in addition to continuing education requirements for relicensing.

OPTIONAL CONDITIONS OF PROBATION (To Be Included In Cases Where Appropriate)

252628. Supervised Practice

Within ~~thirty~~ 30 days of the effective date of this decision, ~~respondent~~ Respondent shall submit to the ~~Board~~ California Board of Accountancy (CBA) or its designee for its prior approval a plan of practice that shall be monitored by another CPA or PA who provides periodic reports to the CBA or its designee. Respondent shall pay all costs for such monitoring.

262729. Restitution

Respondent shall make restitution to _____ in the amount of \$ _____ and shall provide the ~~Board~~ California Board of Accountancy with a written release from _____ attesting that full restitution has been paid. Restitution shall be completed before the termination of probation.

272830. Probation Monitoring Costs

Respondent shall pay all costs associated with probation monitoring as determined by the ~~CBA~~ California Board of Accountancy (CBA). Such costs shall be payable to the CBA within 30 days. Failure to pay such costs by the deadline(s) as directed shall be considered a violation of probation. If costs are billed after the completion of the probationary period, the obligation to pay the costs shall continue, but the probation shall not be extended.

282931. Restricted Practice

Respondent shall be prohibited from _____ (performing certain types of engagements such as audits, reviews, compilations, or other attestation engagements, etc.), and/or from practice in _____ (certain specialty areas, i.e. bookkeeping, write-up, tax, auditing, etc.). The Respondent will be prohibited from performing the above mentioned services until such time that they successfully petition the California Board of Accountancy as listed in BPC section 5115.

293032. Engagement Letters

Respondent shall use engagement letters with each engagement accepted during probation and shall provide copies of same to the ~~Board~~ California Board of Accountancy or its designee upon request.

303133. Library Reference Materials

Respondent shall have immediate access to, shall use, and shall maintain published materials and/or checklists that are consistent with the practice. Such materials and checklists shall be produced on-site for review by the ~~Board~~ California Board of Accountancy or its designee upon reasonable notice.

3132. Ethics Continuing Education

~~Within (a specified time period (e.g. one year)) of the effective date of the Order or Prior to the resumption of practice (where the license has been suspended), Respondent shall complete four hours of continuing education in course subject matter pertaining to the following: a review of nationally recognized codes of conduct emphasizing how the codes relate to professional responsibilities; case-based instruction focusing on real-life situational learning; ethical dilemmas facing the accounting profession; or business ethics, ethical sensitivity, and consumer expectations (within a given period of time or prior to resumption of practice). Courses must be a minimum of one hour as described in California Code of Regulations section 88.2., (Courses will be passed prior to resumption of practice where license has been suspended or where otherwise appropriate.)~~

~~If respondent Respondent fails to complete said courses within the time period provided, respondent Respondent shall so notify the California Board of Accountancy (CBA), CBA and shall cease practice until respondent Respondent completes said courses, has submitted proof of same to the CBA, and has been notified by the CBA that he or she may resume practice. Failure to complete the required courses within the time period provided no later than 100 days prior to the termination of probation shall constitute a violation of probation. This shall be in addition to continuing education requirements for relicensing.~~

3233. Regulatory Review Course

~~Within (a specified time period (e.g. 180 days)) of the effective date of the Order or Prior to the resumption of practice (where the license has been suspended), Respondent shall complete a California Board of Accountancy (CBA) CBA approved course on the provisions of the California Accountancy Act and the (CBA) Regulations specific to the practice of public accountancy in California emphasizing the provisions applicable to current practice situations (within a given period of time or prior to resumption of practice). The course also will include an overview of historic and recent disciplinary actions taken by the CBA, highlighting the misconduct which led to licensees being disciplined. The course shall be (a minimum of) two hours.~~

~~If respondent Respondent fails to complete said courses within the time period provided, respondent Respondent shall so notify the CBA and shall cease practice until respondent Respondent completes said courses, has submitted proof of same to the CBA, and has been notified by the CBA that he or she may resume practice. Failure to complete the required courses within the time period provided no later than 100 days prior to the termination of probation shall constitute a violation of probation. This shall be in addition to continuing education requirements for relicensing.~~

3334. Peer Review

During the period of probation, all audit, review, and compilation reports and work papers shall be subject to peer review by a Board-recognized peer review program provider pursuant to Business and Professions Code section 5076 and California Code of Regulations, Title 16, Division 1, Article 6, commencing with section 38, certified peer reviewer at respondent's Respondent's expense. The review shall evaluate the

respondent's and his/her firm's system of quality control, including, its organizational structure, the policies and procedures established by the firm, and the firm's compliance with its quality control system as determined on the basis of a review of selected engagements. The specific engagements to be reviewed shall be at the discretion of the peer reviewer. Within 45 days of the peer review report being accepted by a Board-recognized peer review program provider, Respondent shall submit to the California Board of Accountancy (CBA) a copy of the peer review report, including any materials documenting the prescription of remedial or corrective actions imposed by the Board-recognized peer review program provider. Respondent shall also submit, if available, within 45 days from the date of the request by the CBA or its designee, any materials documenting completion of any prescribed or remedial actions.

Upon completion of the peer review, respondent shall submit a copy of the report with the reviewer's conclusions and findings to the Board.

Condition 38 shall be used whenever Condition 34 is used.

3435. CPA Exam

Within (a specified time period (e.g. one (1) year)) of the effective date of the Order or Prior to the resumption of practice (where the license has been suspended), Respondent shall take and pass the (section) of the Uniform CPA Exam. –e.g., within 180 days of the effective date of the decision or within 180 days of completion of educational program, etc., or Prior to the resumption of practice. (Exam will be passed Prior to resumption of practice where license has been suspended or where otherwise appropriate.)

If ~~respondent~~Respondent fails to pass said examination within the time period provided ~~or within two attempts~~, ~~respondent~~Respondent shall so notify the ~~Board~~ California Board of Accountancy (CBA) and shall cease practice until ~~respondent~~Respondent ~~takes~~ completes and successfully passes said examination, has submitted proof of same to the CBA, and has been notified by the CBA that he or she may resume practice. Failure to pass the required examination within the time period provided ~~no later than 100 days prior to the termination of probation~~ shall constitute a violation of probation.

35. Enrolled Agents Exam

~~Respondent shall take and pass the enrolled agents exam (within a given period of time or prior to the resumption of practice). (Exam will be passed prior to resumption of practice where license has been suspended or where otherwise appropriate.)~~

~~If respondent fails to pass said examination within the time period provided or within two attempts, respondent shall so notify the Board and shall cease practice until respondent takes and successfully passes said examination, has submitted proof of same to the Board, and has been notified by the Board that he or she may resume practice. Failure to pass the required examination no later than 100 days prior to the termination of probation shall constitute a violation of probation.~~

36. Continuing Education Courses

Within (a specified time period (e.g. 180 days)) of the effective date of the Order or Prior to the resumption of practice (where the license has been suspended), Respondent shall complete and provide proper documentation of (specified) professional education courses within (a designated time). This shall be in addition to continuing education requirements for relicensing.

If Respondent fails to complete said courses within the time period provided, Respondent shall so notify the California Board of Accountancy (CBA) and shall cease practice until Respondent completes said courses, has submitted proof of same to the CBA, and has been notified by the CBA that he or she may resume practice. Failure to complete the required courses within the time period provided shall constitute a violation of probation. This shall be in addition to continuing education requirements for relicensing.

37. Active License Status

Respondent shall at all times maintain an active license status with the ~~Board~~ California Board of Accountancy (CBA), including during any period of suspension. If the license is expired at the time the ~~Board~~ CBA's decision becomes effective, the license must be renewed within 30 days of the effective date of the decision.

38. Samples - Audit, Review or Compilation

During the period of probation, if the ~~respondent~~ Respondent undertakes an audit, review or compilation engagement, the ~~respondent~~ Respondent shall submit to the ~~Board~~ California Board of Accountancy (CBA) as an attachment to the required quarterly report a listing of the same. The CBA or its designee may select one or more from each category and the resulting report and financial statement and all related working papers must be submitted to the CBA or its designee upon request.

39. Prohibition from Handling Funds

During the period of probation the ~~respondent~~ Respondent shall engage in no activities which require receiving or disbursing funds for or on behalf of any other person, company, partnership, association, corporation, or other business entity.

40. Community Service - Free Services

Respondent shall participate in a community service program as directed by the ~~Board~~ California Board of Accountancy (CBA) or its designee in which ~~respondent~~ Respondent provides free professional services on a regular basis to a community or charitable facility or agency, amounting to a minimum of ____ hours. Such services to begin no later than ____ days after ~~respondent~~ Respondent is notified of the program and to be completed no later than _____. Respondent shall submit proof of compliance with this requirement to the CBA. Respondent is entirely responsible for his or her performance in the program and the CBA assumes neither express nor implied responsibility for ~~respondent's~~ Respondent's performance nor for the product or services rendered.

41. Relinquish Certificate

Respondent shall relinquish and shall forward or deliver the certificate or permit to practice to the ~~Board~~ California Board of Accountancy (CBA) office within 10 days of the effective date of this decision and order.

42. Notification to Clients/Cessation of Practice

In orders that provide for a cessation or suspension of practice, ~~respondent~~ Respondent shall comply with procedures provided by the California Board of Accountancy or its designee regarding notification to, and management of, clients.

43. Administrative Penalty

Respondent shall pay to the ~~Board~~ California Board of Accountancy an administrative penalty in the amount of \$ _____ for violation of section(s) _____ of the California Accountancy Act. The payment shall be made within ___ days/months of the date the ~~Board~~ CBA's decision is final.

44. Medical Treatment

Respondent shall undergo and continue treatment by a licensed physician of ~~respondent's~~ Respondent's choice and approved by the ~~Board~~ California Board of Accountancy (CBA) or its designee until the treating physician certifies in writing in a report to the CBA or its designee that treatment is no longer necessary. Respondent shall have the treating physician submit reports to the CBA at intervals determined by the ~~Board~~ CBA or its designee. Respondent is responsible for costs of treatment and reports.

(Optional)

Respondent shall not engage in practice until notified by the CBA of its determination that ~~respondent~~ Respondent is physically fit to practice.

45. Psychotherapist

Respondent shall undergo and continue treatment by a licensed psychotherapist of ~~respondent's~~ Respondent's choice and approved by ~~Board~~ the California Board of Accountancy (CBA) or its designee until the treating psychotherapist certifies in writing in a report to the ~~Board~~ CBA or its designee that treatment is no longer necessary. Respondent shall have the treating psychotherapist submit reports to the ~~Board~~ CBA at intervals determined by the ~~Board~~ CBA or its designee. Respondent is responsible for costs of treatment and reports.

(Optional)

Respondent shall not engage in practice until notified by the ~~Board~~ CBA of its determination that ~~respondent~~ Respondent is mentally fit to practice.

46. Rehabilitation Program/Chemical Dependence

Respondent shall successfully complete or shall have successfully completed a rehabilitation program for chemical dependence that the ~~Board~~ California Board of Accountancy (CBA) or its designee approves and shall have reports submitted by the program. If a program was not successfully completed prior to the period of probation, the ~~respondent~~ Respondent, within a reasonable period of time as determined by the ~~Board~~ CBA or its designee but not exceeding 90 days of the effective date of the decision, shall be enrolled in a program. In addition, ~~respondent~~ Respondent must attend support groups, (e.g. Narcotics Anonymous, Alcoholic Anonymous etc.), as directed by the ~~Board~~ CBA or its designee. Respondent is responsible for all costs of such a program.

47. Drugs - Abstain From Use

Respondent shall completely abstain from the personal use of all psychotropic drugs, including alcohol, in any form except when the same are lawfully prescribed.

48. Drugs – Screening

Respondent shall participate or shall have participated in a drug screening program acceptable to the ~~Board~~ California Board of Accountancy (CBA) and shall have reports submitted by the program. Respondent is responsible for all costs associated with said screening and reporting.

49. Biological Fluid Testing

Respondent, at any time during the period of probation, shall fully cooperate with the ~~Board~~ California Board of Accountancy (CBA) or its designee in its supervision and investigation of compliance with the terms and conditions of probation, and shall, when requested, submit to such tests and samples as the CBA or its designee may require for the detection of alcohol, narcotics, hypnotic, dangerous drugs, or controlled substances. Respondent is responsible for all costs associated with this investigation and testing.

Conditions 44-49 shall be used when evidence indicates ~~respondent~~ Respondent may have physical or mental ailment(s) or conditions(s) which contributed to the violation or when the same are alleged by ~~respondent~~ Respondent to be a contributing factor to the violation(s).



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Attachment 2

CBA Regulations Section 98

§ 98. Disciplinary Guidelines

In reaching a decision on a disciplinary action under the Administrative Procedure Act (Government Code Section 11400 et seq.) the Board shall consider the disciplinary guidelines entitled “Disciplinary Guidelines and Model Orders” (~~9th edition, 2013~~ 10th edition, 2016, 2019), which are hereby incorporated by reference. Deviation from these guidelines and orders, including the standard terms of probation, is appropriate where the Board in its sole discretion determines that the facts of the particular case warrant such a deviation, for example: the presence of mitigating factors; the age of the case; evidentiary problems.

Note: Authority cited: Sections 5010, 5018 and 5116, Business and Professions Code; and Section 11400.20, Government Code. Reference: Sections 5018, 5096, 5096.5, 5096.12, 5100 and 5116–5116.6, Business and professions Code; and Section 11425.50(e), Government Code.



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Attachment 3

CBA Regulations Section 99

§ 99. Substantial Relationship Criteria

For the purposes of denial, suspension, or revocation of a certificate or permit pursuant to Division 1.5 (commencing with Section 475) of the Business and Professions Code, a crime or act professional misconduct shall be considered to be substantially related to the qualifications, functions or duties of a certified public accountant or public accountant if to a substantial degree it evidences present or potential unfitness of a certified public accountant or public accountant to perform the functions authorized by his or her certificate or permit in a manner consistent with the public health, safety, or welfare.

(a) Criteria for determining whether a crime is substantially related to the qualifications, functions, or duties of a certified public accountant or public accountant shall include:

(1) The nature and gravity of the offense;

(2) The number of years elapsed since the date of the offense;

(3) The nature and duties of the accounting profession;

(4) Whether the offense included an act of dishonesty, fraud, or breach of fiduciary responsibility;

(5) Whether the offense reflects a lack of sound professional judgment relevant to the practice of public accountancy, regardless of whether financial harm occurred to a consumer.

~~(b) Such crimes or acts shall include but not be limited to those involving the following:~~

Professional misconduct shall be substantially related to the qualifications, functions, or duties of a certified public accountant or public accountant if it involves any of the following:

~~(a) (1) Dishonesty, fraud, or breach of fiduciary responsibility of any kind;~~

~~(b) (2) Fraud or deceit in obtaining a certified public accountant's certificate or a public accountant's permit under Chapter 1, Division III of the Business and Professions Code;~~

~~(c) (3) Gross negligence in the practice of public accountancy or in the performance of the bookkeeping operations described in Section 5052 of the code;~~

(4) Conduct that reflects a lack of sound professional and personal judgment relevant to the practice of public accountancy, regardless of whether financial harm has occurred to a consumer;

~~(d) (5) Violation of any of the provisions of Chapter 1, Division III of the Business and Professions Code or willful violation of any rule or regulation of the board.~~

Note: Authority cited: Sections 481, 5010 and 5018, Business and Professions Code.
 Reference: Sections 480, 481 and 5100, Business and Professions Code



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Attachment 4

CBA Regulations Section 99.1

§ 99.1. Rehabilitation Criteria for Denials, Suspensions, Revocations, Restorations, Reduction of Penalty, Etc.

When considering the denial of a certificate or permit under Section 480 of the Business and Professions Code, the suspension or revocation of a certificate or permit under 5100 of the Business and Professions Code, or restoration of a revoked certificate or reduction of penalty under Section ~~44522~~ 5115 of the ~~Government~~ Business and Professions Code, the board, in evaluating the rehabilitation of the applicant or licensee and his or her present eligibility for a certificate or permit or reduction of penalty, will consider the following criteria:

- (1) Nature and ~~severity~~ gravity of the act(s) or offense(s).
- (2) Nature and extent of actual and potential consumer harm.
- (3) The applicant's or licensee's attitude toward his or her commission of the violations.
- (4) The applicant's or licensee's recognition ~~Recognition~~ of wrongdoing.
- (5) The applicant's or licensee's history of violations.
- (6) Nature and extent to which the applicant or licensee has taken corrective action to ensure the violation will not recur.
- (7) Nature and extent of restitution to consumers harmed by violations.
- (8) Other aggravating or mitigating factors.
- ~~(2)~~(9) Criminal record and evidence of any act(s) committed subsequent to the act(s) or offense(s) under consideration which also could be considered as grounds for denial, suspension or revocation.
- ~~(3)~~(10) ~~The that has elapsed since commission of the act(s) or offense(s)~~ number of years elapsed since the date of the offense referred to in subdivision (1) or (2).
- ~~(4)~~(11) The applicant or licensee has completed the criminal sentence at issue without a violation of parole or probation. ~~The extent to which the applicant or licensee has complied with any terms of parole, probation, restitution, or any other sanctions lawfully imposed against the applicant or licensee.~~
- ~~(5)~~(12) If applicable, evidence of expungement proceedings pursuant to Section 1203.4 of the Penal Code.
- ~~(6)~~(13) Evidence, if any, of rehabilitation submitted by the applicant or licensee.
- (14) The nature and duties of the accounting profession.
- (15) The California Board of Accountancy, in applying its criteria for rehabilitation, finds that the applicant is rehabilitated.

NOTE: Authority cited: Section 5010, Business and Professions Code. Reference: Sections 480, 481, 482, 486, 5100, 5115 and 5106, Business and Professions Code; and Section 1203.4, Penal Code.



Assembly Bill No. 2138

CHAPTER 995

An act to amend, repeal, and add Sections 7.5, 480, 481, 482, 488, 493, and 11345.2 of, and to add Section 480.2 to, the Business and Professions Code, relating to professions and vocations.

[Approved by Governor September 30, 2018. Filed with Secretary of State September 30, 2018.]

LEGISLATIVE COUNSEL'S DIGEST

AB 2138, Chiu. Licensing boards: denial of application: revocation or suspension of licensure: criminal conviction.

Existing law provides for the licensure and regulation of various professions and vocations by boards within the Department of Consumer Affairs. Existing law authorizes a board to deny, suspend, or revoke a license or take disciplinary action against a licensee on the grounds that the applicant or licensee has, among other things, been convicted of a crime, as specified. Existing law provides that a person shall not be denied a license solely on the basis that the person has been convicted of a felony if he or she has obtained a certificate of rehabilitation or that the person has been convicted of a misdemeanor if he or she has met applicable requirements of rehabilitation developed by the board, as specified. Existing law also prohibits a person from being denied a license solely on the basis of a conviction that has been dismissed, as specified. Existing law requires a board to develop criteria to aid it when considering the denial, suspension, or revocation of a license to determine whether a crime is substantially related to the qualifications, functions, or duties of the business or profession the board regulates and requires a board to develop criteria to evaluate the rehabilitation of a person when considering the denial, suspension, or revocation of a license.

This bill would revise and recast those provisions to instead authorize a board to, among other things, deny, revoke, or suspend a license on the grounds that the applicant or licensee has been subject to formal discipline, as specified, or convicted of a crime only if the applicant or licensee has been convicted of a crime within the preceding 7 years from the date of application that is substantially related to the qualifications, functions, or duties of the business or profession for which the application is made, regardless of whether the applicant was incarcerated for that crime, or if the applicant has been convicted of a crime that is substantially related to the qualifications, functions, or duties of the business or profession for which the application is made and for which the applicant is presently incarcerated or for which the applicant was released from incarceration within the preceding 7 years, except as specified. The bill would prohibit a board from

denying a person a license based on the conviction of a crime, or on the basis of acts underlying a conviction, as defined, for a crime, if the conviction has been dismissed or expunged, if the person has provided evidence of rehabilitation, if the person has been granted clemency or a pardon, or if an arrest resulted in a disposition other than a conviction.

The bill would require the board to develop criteria for determining whether a crime is substantially related to the qualifications, functions, or duties of the business or profession. The bill would require a board to consider whether a person has made a showing of rehabilitation if certain conditions are met. The bill would require a board to follow certain procedures when requesting or acting on an applicant's or licensee's criminal history information. The bill would also require a board to annually submit a report to the Legislature and post the report on its Internet Web site containing specified deidentified information regarding actions taken by a board based on an applicant or licensee's criminal history information.

Existing law authorizes a board to deny a license on the grounds that an applicant knowingly made a false statement of fact that is required to be revealed in the application for licensure.

This bill would prohibit a board from denying a license based solely on an applicant's failure to disclose a fact that would not have been cause for denial of the license had the fact been disclosed.

Existing law authorizes a board, after a specified hearing requested by an applicant for licensure to take various actions in relation to denying or granting the applicant the license.

This bill would revise and recast those provisions to eliminate some of the more specific options that the board may take in these circumstances.

This bill would clarify that the existing above-described provisions continue to apply to the State Athletic Commission, the Bureau for Private Postsecondary Education, and the California Horse Racing Board.

This bill would also make necessary conforming changes.

This bill would make these provisions operative on July 1, 2020.

The people of the State of California do enact as follows:

SECTION 1. Section 7.5 of the Business and Professions Code is amended to read:

7.5. (a) A conviction within the meaning of this code means a plea or verdict of guilty or a conviction following a plea of nolo contendere. Any action which a board is permitted to take following the establishment of a conviction may be taken when the time for appeal has elapsed, or the judgment of conviction has been affirmed on appeal or when an order granting probation is made suspending the imposition of sentence, irrespective of a subsequent order under the provisions of Section 1203.4 of the Penal Code. However, a board may not deny a license to an applicant who is otherwise qualified pursuant to subdivision (b) of Section 480.

Nothing in this section shall apply to the licensure of persons pursuant to Chapter 4 (commencing with Section 6000) of Division 3.

(b) This section shall become inoperative on July 1, 2020, and, as of January 1, 2021, is repealed.

SEC. 2. Section 7.5 is added to the Business and Professions Code, to read:

7.5. (a) A conviction within the meaning of this code means a judgment following a plea or verdict of guilty or a plea of nolo contendere or finding of guilt. Any action which a board is permitted to take following the establishment of a conviction may be taken when the time for appeal has elapsed, or the judgment of conviction has been affirmed on appeal or when an order granting probation is made suspending the imposition of sentence. However, a board may not deny a license to an applicant who is otherwise qualified pursuant to subdivision (b) or (c) of Section 480.

(b) (1) Nothing in this section shall apply to the licensure of persons pursuant to Chapter 4 (commencing with Section 6000) of Division 3.

(2) This section does not in any way modify or otherwise affect the existing authority of the following entities in regard to licensure:

- (A) The State Athletic Commission.
- (B) The Bureau for Private Postsecondary Education.
- (C) The California Horse Racing Board.

(c) Except as provided in subdivision (b), this section controls over and supersedes the definition of conviction contained within individual practice acts under this code.

(d) This section shall become operative on July 1, 2020.

SEC. 3. Section 480 of the Business and Professions Code is amended to read:

480. (a) A board may deny a license regulated by this code on the grounds that the applicant has one of the following:

(1) Been convicted of a crime. A conviction within the meaning of this section means a plea or verdict of guilty or a conviction following a plea of nolo contendere. Any action that a board is permitted to take following the establishment of a conviction may be taken when the time for appeal has elapsed, or the judgment of conviction has been affirmed on appeal, or when an order granting probation is made suspending the imposition of sentence, irrespective of a subsequent order under the provisions of Section 1203.4, 1203.4a, or 1203.41 of the Penal Code.

(2) Done any act involving dishonesty, fraud, or deceit with the intent to substantially benefit himself or herself or another, or substantially injure another.

(3) (A) Done any act that if done by a licentiate of the business or profession in question, would be grounds for suspension or revocation of license.

(B) The board may deny a license pursuant to this subdivision only if the crime or act is substantially related to the qualifications, functions, or duties of the business or profession for which application is made.

(b) Notwithstanding any other provision of this code, a person shall not be denied a license solely on the basis that he or she has been convicted of a felony if he or she has obtained a certificate of rehabilitation under Chapter 3.5 (commencing with Section 4852.01) of Title 6 of Part 3 of the Penal Code or that he or she has been convicted of a misdemeanor if he or she has met all applicable requirements of the criteria of rehabilitation developed by the board to evaluate the rehabilitation of a person when considering the denial of a license under subdivision (a) of Section 482.

(c) Notwithstanding any other provisions of this code, a person shall not be denied a license solely on the basis of a conviction that has been dismissed pursuant to Section 1203.4, 1203.4a, or 1203.41 of the Penal Code. An applicant who has a conviction that has been dismissed pursuant to Section 1203.4, 1203.4a, or 1203.41 of the Penal Code shall provide proof of the dismissal.

(d) A board may deny a license regulated by this code on the ground that the applicant knowingly made a false statement of fact that is required to be revealed in the application for the license.

(e) This section shall become inoperative on July 1, 2020, and, as of January 1, 2021, is repealed.

SEC. 4. Section 480 is added to the Business and Professions Code, to read:

480. (a) Notwithstanding any other provision of this code, a board may deny a license regulated by this code on the grounds that the applicant has been convicted of a crime or has been subject to formal discipline only if either of the following conditions are met:

(1) The applicant has been convicted of a crime within the preceding seven years from the date of application that is substantially related to the qualifications, functions, or duties of the business or profession for which the application is made, regardless of whether the applicant was incarcerated for that crime, or the applicant has been convicted of a crime that is substantially related to the qualifications, functions, or duties of the business or profession for which the application is made and for which the applicant is presently incarcerated or for which the applicant was released from incarceration within the preceding seven years from the date of application. However, the preceding seven-year limitation shall not apply in either of the following situations:

(A) The applicant was convicted of a serious felony, as defined in Section 1192.7 of the Penal Code or a crime for which registration is required pursuant to paragraph (2) or (3) of subdivision (d) of Section 290 of the Penal Code.

(B) The applicant was convicted of a financial crime currently classified as a felony that is directly and adversely related to the fiduciary qualifications, functions, or duties of the business or profession for which the application is made, pursuant to regulations adopted by the board, and for which the applicant is seeking licensure under any of the following:

- (i) Chapter 1 (commencing with Section 5000) of Division 3.
- (ii) Chapter 6 (commencing with Section 6500) of Division 3.

- (iii) Chapter 9 (commencing with Section 7000) of Division 3.
- (iv) Chapter 11.3 (commencing with Section 7512) of Division 3.
- (v) Licensure as a funeral director or cemetery manager under Chapter 12 (commencing with Section 7600) of Division 3.
- (vi) Division 4 (commencing with Section 10000).

(2) The applicant has been subjected to formal discipline by a licensing board in or outside California within the preceding seven years from the date of application based on professional misconduct that would have been cause for discipline before the board for which the present application is made and that is substantially related to the qualifications, functions, or duties of the business or profession for which the present application is made. However, prior disciplinary action by a licensing board within the preceding seven years shall not be the basis for denial of a license if the basis for that disciplinary action was a conviction that has been dismissed pursuant to Section 1203.4, 1203.4a, 1203.41, or 1203.42 of the Penal Code or a comparable dismissal or expungement.

(b) Notwithstanding any other provision of this code, a person shall not be denied a license on the basis that he or she has been convicted of a crime, or on the basis of acts underlying a conviction for a crime, if he or she has obtained a certificate of rehabilitation under Chapter 3.5 (commencing with Section 4852.01) of Title 6 of Part 3 of the Penal Code, has been granted clemency or a pardon by a state or federal executive, or has made a showing of rehabilitation pursuant to Section 482.

(c) Notwithstanding any other provision of this code, a person shall not be denied a license on the basis of any conviction, or on the basis of the acts underlying the conviction, that has been dismissed pursuant to Section 1203.4, 1203.4a, 1203.41, or 1203.42 of the Penal Code, or a comparable dismissal or expungement. An applicant who has a conviction that has been dismissed pursuant to Section 1203.4, 1203.4a, 1203.41, or 1203.42 of the Penal Code shall provide proof of the dismissal if it is not reflected on the report furnished by the Department of Justice.

(d) Notwithstanding any other provision of this code, a board shall not deny a license on the basis of an arrest that resulted in a disposition other than a conviction, including an arrest that resulted in an infraction, citation, or a juvenile adjudication.

(e) A board may deny a license regulated by this code on the ground that the applicant knowingly made a false statement of fact that is required to be revealed in the application for the license. A board shall not deny a license based solely on an applicant's failure to disclose a fact that would not have been cause for denial of the license had it been disclosed.

(f) A board shall follow the following procedures in requesting or acting on an applicant's criminal history information:

(1) A board issuing a license pursuant to Chapter 3 (commencing with Section 5500), Chapter 3.5 (commencing with Section 5615), Chapter 10 (commencing with Section 7301), Chapter 20 (commencing with Section 9800), or Chapter 20.3 (commencing with Section 9880), of Division 3, or Chapter 3 (commencing with Section 19000) or Chapter 3.1 (commencing

with Section 19225) of Division 8 may require applicants for licensure under those chapters to disclose criminal conviction history on an application for licensure.

(2) Except as provided in paragraph (1), a board shall not require an applicant for licensure to disclose any information or documentation regarding the applicant's criminal history. However, a board may request mitigating information from an applicant regarding the applicant's criminal history for purposes of determining substantial relation or demonstrating evidence of rehabilitation, provided that the applicant is informed that disclosure is voluntary and that the applicant's decision not to disclose any information shall not be a factor in a board's decision to grant or deny an application for licensure.

(3) If a board decides to deny an application for licensure based solely or in part on the applicant's conviction history, the board shall notify the applicant in writing of all of the following:

(A) The denial or disqualification of licensure.

(B) Any existing procedure the board has for the applicant to challenge the decision or to request reconsideration.

(C) That the applicant has the right to appeal the board's decision.

(D) The processes for the applicant to request a copy of his or her complete conviction history and question the accuracy or completeness of the record pursuant to Sections 11122 to 11127 of the Penal Code.

(g) (1) For a minimum of three years, each board under this code shall retain application forms and other documents submitted by an applicant, any notice provided to an applicant, all other communications received from and provided to an applicant, and criminal history reports of an applicant.

(2) Each board under this code shall retain the number of applications received for each license and the number of applications requiring inquiries regarding criminal history. In addition, each licensing authority shall retain all of the following information:

(A) The number of applicants with a criminal record who received notice of denial or disqualification of licensure.

(B) The number of applicants with a criminal record who provided evidence of mitigation or rehabilitation.

(C) The number of applicants with a criminal record who appealed any denial or disqualification of licensure.

(D) The final disposition and demographic information, consisting of voluntarily provided information on race or gender, of any applicant described in subparagraph (A), (B), or (C).

(3) (A) Each board under this code shall annually make available to the public through the board's Internet Web site and through a report submitted to the appropriate policy committees of the Legislature deidentified information collected pursuant to this subdivision. Each board shall ensure confidentiality of the individual applicants.

(B) A report pursuant to subparagraph (A) shall be submitted in compliance with Section 9795 of the Government Code.

(h) "Conviction" as used in this section shall have the same meaning as defined in Section 7.5.

(i) This section does not in any way modify or otherwise affect the existing authority of the following entities in regard to licensure:

- (1) The State Athletic Commission.
- (2) The Bureau for Private Postsecondary Education.
- (3) The California Horse Racing Board.

(j) This section shall become operative on July 1, 2020.

SEC. 5. Section 480.2 is added to the Business and Professions Code, to read:

480.2. (a) The Bureau for Private Postsecondary Education, the State Athletic Commission, and the California Horse Racing Board may deny a license regulated by it on the grounds that the applicant has one of the following:

- (1) Been convicted of a crime.
- (2) Done any act involving dishonesty, fraud, or deceit with the intent to substantially benefit himself or herself or another, or substantially injure another.
- (3) (A) Done any act that if done by a licentiate of the business or profession in question, would be grounds for suspension or revocation of license.

(B) The Bureau for Private Postsecondary Education, the State Athletic Commission, and the California Horse Racing Board may deny a license pursuant to this subdivision only if the crime or act is substantially related to the qualifications, functions, or duties of the business or profession for which application is made.

(b) Notwithstanding any other provision of this code, a person shall not be denied a license solely on the basis that he or she has been convicted of a felony if he or she has obtained a certificate of rehabilitation under Chapter 3.5 (commencing with Section 4852.01) of Title 6 of Part 3 of the Penal Code or that he or she has been convicted of a misdemeanor if he or she has met all applicable requirements of the criteria of rehabilitation developed by the Bureau for Private Postsecondary Education, the State Athletic Commission, and the California Horse Racing Board to evaluate the rehabilitation of a person when considering the denial of a license under paragraph (1) of subdivision (f).

(c) Notwithstanding any other provisions of this code, a person shall not be denied a license by the Bureau for Private Postsecondary Education, the State Athletic Commission, or the California Horse Racing Board solely on the basis of a conviction that has been dismissed pursuant to Section 1203.4, 1203.4a, or 1203.41 of the Penal Code. An applicant who has a conviction that has been dismissed pursuant to Section 1203.4, 1203.4a, or 1203.41 of the Penal Code shall provide proof of the dismissal.

(d) The Bureau for Private Postsecondary Education, the State Athletic Commission, and the California Horse Racing Board may deny a license regulated by it on the ground that the applicant knowingly made a false

statement of fact that is required to be revealed in the application for the license.

(e) The Bureau for Private Postsecondary Education, the State Athletic Commission, and the California Horse Racing Board shall develop criteria to aid it, when considering the denial, suspension or revocation of a license, to determine whether a crime or act is substantially related to the qualifications, functions, or duties of the business or profession it regulates.

(f) (1) The Bureau for Private Postsecondary Education, the State Athletic Commission, and the California Horse Racing Board shall develop criteria to evaluate the rehabilitation of a person either when:

(A) Considering the denial of a license under this section.

(B) Considering suspension or revocation of a license under Section 490.

(2) The Bureau for Private Postsecondary Education, the State Athletic Commission, and the California Horse Racing Board shall take into account all competent evidence of rehabilitation furnished by the applicant or licensee.

(g) Except as otherwise provided by law, following a hearing requested by an applicant pursuant to subdivision (b) of Section 485, the Bureau for Private Postsecondary Education, the State Athletic Commission, and the California Horse Racing Board may take any of the following actions:

(1) Grant the license effective upon completion of all licensing requirements by the applicant.

(2) Grant the license effective upon completion of all licensing requirements by the applicant, immediately revoke the license, stay the revocation, and impose probationary conditions on the license, which may include suspension.

(3) Deny the license.

(4) Take other action in relation to denying or granting the license as the Bureau for Private Postsecondary Education, the State Athletic Commission, or the California Horse Racing Board, in its discretion, may deem proper.

(h) Notwithstanding any other law, in a proceeding conducted by the Bureau for Private Postsecondary Education, the State Athletic Commission, or the California Horse Racing Board to deny an application for a license or to suspend or revoke a license or otherwise take disciplinary action against a person who holds a license, upon the ground that the applicant or the licensee has been convicted of a crime substantially related to the qualifications, functions, and duties of the licensee in question, the record of conviction of the crime shall be conclusive evidence of the fact that the conviction occurred, but only of that fact, and the Bureau for Private Postsecondary Education, the State Athletic Commission, and the California Horse Racing Board may inquire into the circumstances surrounding the commission of the crime in order to fix the degree of discipline or to determine if the conviction is substantially related to the qualifications, functions, and duties of the licensee in question.

(i) Notwithstanding Section 7.5, a conviction within the meaning of this section means a plea or verdict of guilty or a conviction following a plea of nolo contendere. Any action that the Bureau for Private Postsecondary

Education, the State Athletic Commission, or the California Horse Racing Board is permitted to take following the establishment of a conviction may be taken when the time for appeal has elapsed, the judgment of conviction has been affirmed on appeal, or when an order granting probation is made suspending the imposition of sentence, irrespective of a subsequent order under the provisions of Section 1203.4, 1203.4a, or 1203.41 of the Penal Code.

(j) This section shall become operative on July 1, 2020.

SEC. 6. Section 481 of the Business and Professions Code is amended to read:

481. (a) Each board under the provisions of this code shall develop criteria to aid it, when considering the denial, suspension or revocation of a license, to determine whether a crime or act is substantially related to the qualifications, functions, or duties of the business or profession it regulates.

(b) This section shall become inoperative on July 1, 2020, and, as of January 1, 2021, is repealed.

SEC. 7. Section 481 is added to the Business and Professions Code, to read:

481. (a) Each board under this code shall develop criteria to aid it, when considering the denial, suspension, or revocation of a license, to determine whether a crime is substantially related to the qualifications, functions, or duties of the business or profession it regulates.

(b) Criteria for determining whether a crime is substantially related to the qualifications, functions, or duties of the business or profession a board regulates shall include all of the following:

- (1) The nature and gravity of the offense.
- (2) The number of years elapsed since the date of the offense.
- (3) The nature and duties of the profession in which the applicant seeks licensure or in which the licensee is licensed.

(c) A board shall not deny a license based in whole or in part on a conviction without considering evidence of rehabilitation submitted by an applicant pursuant to any process established in the practice act or regulations of the particular board and as directed by Section 482.

(d) Each board shall post on its Internet Web site a summary of the criteria used to consider whether a crime is considered to be substantially related to the qualifications, functions, or duties of the business or profession it regulates consistent with this section.

(e) This section does not in any way modify or otherwise affect the existing authority of the following entities in regard to licensure:

- (1) The State Athletic Commission.
- (2) The Bureau for Private Postsecondary Education.
- (3) The California Horse Racing Board.

(f) This section shall become operative on July 1, 2020.

SEC. 8. Section 482 of the Business and Professions Code is amended to read:

482. (a) Each board under the provisions of this code shall develop criteria to evaluate the rehabilitation of a person when:

(1) Considering the denial of a license by the board under Section 480;
or

(2) Considering suspension or revocation of a license under Section 490.

(b) Each board shall take into account all competent evidence of rehabilitation furnished by the applicant or licensee.

(c) This section shall become inoperative on July 1, 2020, and, as of January 1, 2021, is repealed.

SEC. 9. Section 482 is added to the Business and Professions Code, to read:

482. (a) Each board under this code shall develop criteria to evaluate the rehabilitation of a person when doing either of the following:

(1) Considering the denial of a license by the board under Section 480.

(2) Considering suspension or revocation of a license under Section 490.

(b) Each board shall consider whether an applicant or licensee has made a showing of rehabilitation if either of the following are met:

(1) The applicant or licensee has completed the criminal sentence at issue without a violation of parole or probation.

(2) The board, applying its criteria for rehabilitation, finds that the applicant is rehabilitated.

(c) This section does not in any way modify or otherwise affect the existing authority of the following entities in regard to licensure:

(1) The State Athletic Commission.

(2) The Bureau for Private Postsecondary Education.

(3) The California Horse Racing Board.

(d) This section shall become operative on July 1, 2020.

SEC. 10. Section 488 of the Business and Professions Code is amended to read:

488. (a) Except as otherwise provided by law, following a hearing requested by an applicant pursuant to subdivision (b) of Section 485, the board may take any of the following actions:

(1) Grant the license effective upon completion of all licensing requirements by the applicant.

(2) Grant the license effective upon completion of all licensing requirements by the applicant, immediately revoke the license, stay the revocation, and impose probationary conditions on the license, which may include suspension.

(3) Deny the license.

(4) Take other action in relation to denying or granting the license as the board in its discretion may deem proper.

(b) This section shall become inoperative on July 1, 2020, and, as of January 1, 2021, is repealed.

SEC. 11. Section 488 is added to the Business and Professions Code, to read:

488. (a) Except as otherwise provided by law, following a hearing requested by an applicant pursuant to subdivision (b) of Section 485, the board may take any of the following actions:

(1) Grant the license effective upon completion of all licensing requirements by the applicant.

(2) Grant the license effective upon completion of all licensing requirements by the applicant, immediately revoke the license, stay the revocation, and impose probationary conditions on the license, which may include suspension.

(3) Deny the license.

(4) Take other action in relation to denying or granting the license as the board in its discretion may deem proper.

(b) This section does not in any way modify or otherwise affect the existing authority of the following entities in regard to licensure:

(1) The State Athletic Commission.

(2) The Bureau for Private Postsecondary Education.

(3) The California Horse Racing Board.

(c) This section shall become operative on July 1, 2020.

SEC. 12. Section 493 of the Business and Professions Code is amended to read:

493. (a) Notwithstanding any other provision of law, in a proceeding conducted by a board within the department pursuant to law to deny an application for a license or to suspend or revoke a license or otherwise take disciplinary action against a person who holds a license, upon the ground that the applicant or the licensee has been convicted of a crime substantially related to the qualifications, functions, and duties of the licensee in question, the record of conviction of the crime shall be conclusive evidence of the fact that the conviction occurred, but only of that fact, and the board may inquire into the circumstances surrounding the commission of the crime in order to fix the degree of discipline or to determine if the conviction is substantially related to the qualifications, functions, and duties of the licensee in question.

(b) As used in this section, "license" includes "certificate," "permit," "authority," and "registration."

(c) This section shall become inoperative on July 1, 2020, and, as of January 1, 2021, is repealed.

SEC. 13. Section 493 is added to the Business and Professions Code, to read:

493. (a) Notwithstanding any other law, in a proceeding conducted by a board within the department pursuant to law to deny an application for a license or to suspend or revoke a license or otherwise take disciplinary action against a person who holds a license, upon the ground that the applicant or the licensee has been convicted of a crime substantially related to the qualifications, functions, and duties of the licensee in question, the record of conviction of the crime shall be conclusive evidence of the fact that the conviction occurred, but only of that fact.

(b) (1) Criteria for determining whether a crime is substantially related to the qualifications, functions, or duties of the business or profession the board regulates shall include all of the following:

(A) The nature and gravity of the offense.

- (B) The number of years elapsed since the date of the offense.
- (C) The nature and duties of the profession.
- (2) A board shall not categorically bar an applicant based solely on the type of conviction without considering evidence of rehabilitation.
- (c) As used in this section, “license” includes “certificate,” “permit,” “authority,” and “registration.”
- (d) This section does not in any way modify or otherwise affect the existing authority of the following entities in regard to licensure:
 - (1) The State Athletic Commission.
 - (2) The Bureau for Private Postsecondary Education.
 - (3) The California Horse Racing Board.
- (e) This section shall become operative on July 1, 2020.

SEC. 14. Section 11345.2 of the Business and Professions Code is amended to read:

11345.2. (a) An individual shall not act as a controlling person for a registrant if any of the following apply:

(1) The individual has entered a plea of guilty or no contest to, or been convicted of, a felony. Notwithstanding subdivision (c) of Section 480, if the individual’s felony conviction has been dismissed pursuant to Section 1203.4, 1203.4a, or 1203.41 of the Penal Code, the bureau may allow the individual to act as a controlling person.

(2) The individual has had a license or certificate to act as an appraiser or to engage in activities related to the transfer of real property refused, denied, canceled, or revoked in this state or any other state.

(b) Any individual who acts as a controlling person of an appraisal management company and who enters a plea of guilty or no contest to, or is convicted of, a felony, or who has a license or certificate as an appraiser refused, denied, canceled, or revoked in any other state shall report that fact or cause that fact to be reported to the office, in writing, within 10 days of the date he or she has knowledge of that fact.

(c) This section shall become inoperative on July 1, 2020, and, as of January 1, 2021, is repealed.

SEC. 15. Section 11345.2 is added to the Business and Professions Code, to read:

11345.2. (a) An individual shall not act as a controlling person for a registrant if any of the following apply:

(1) The individual has entered a plea of guilty or no contest to, or been convicted of, a felony. If the individual’s felony conviction has been dismissed pursuant to Section 1203.4, 1203.4a, 1203.41, or 1203.42 of the Penal Code, the bureau may allow the individual to act as a controlling person.

(2) The individual has had a license or certificate to act as an appraiser or to engage in activities related to the transfer of real property refused, denied, canceled, or revoked in this state or any other state.

(b) Any individual who acts as a controlling person of an appraisal management company and who enters a plea of guilty or no contest to, or is convicted of, a felony, or who has a license or certificate as an appraiser

refused, denied, canceled, or revoked in any other state shall report that fact or cause that fact to be reported to the office, in writing, within 10 days of the date he or she has knowledge of that fact.

(c) This section shall become operative on July 1, 2020.

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Attachment 6

Business and Professions Code, Division 1.5. Denial, Suspension, Revocation of Licenses Chapter 2. Denial of License Section 480. Grounds for Denial

§ 480. (a) Notwithstanding any other provision of this code, a board may deny a license regulated by this code on the grounds that the applicant has been convicted of a crime or has been subject to formal discipline only if either of the following conditions are met:

(1) The applicant has been convicted of a crime within the preceding seven years from the date of application that is substantially related to the qualifications, functions, or duties of the business or profession for which the application is made, regardless of whether the applicant was incarcerated for that crime, or the applicant has been convicted of a crime that is substantially related to the qualifications, functions, or duties of the business or profession for which the application is made and for which the applicant is presently incarcerated or for which the applicant was released from incarceration within the preceding seven years from the date of application. However, the preceding seven-year limitation shall not apply in either of the following situations:

(A) The applicant was convicted of a serious felony, as defined in Section 1192.7 of the Penal Code or a crime for which registration is required pursuant to paragraph (2) or (3) of subdivision (d) of Section 290 of the Penal Code.

(B) The applicant was convicted of a financial crime currently classified as a felony that is directly and adversely related to the fiduciary qualifications, functions, or duties of the business or profession for which the application is made, pursuant to regulations adopted by the board, and for which the applicant is seeking licensure under any of the following:

(i) ~~Chapter 1 (commencing with Section 5000) of Division 3.~~

(ii) Chapter 6 (commencing with Section 6500) of Division 3.

(iii) Chapter 9 (commencing with Section 7000) of Division 3.

(iv) Chapter 11.3 (commencing with Section 7512) of Division 3.

(v) Licensure as a funeral director or cemetery manager under Chapter 12 (commencing with Section 7600) of Division 3.

(vi) Division 4 (commencing with Section 10000).

(2) The applicant has been subjected to formal discipline by a licensing board in or outside California within the preceding seven years from the date of application based on professional misconduct that would have been cause for discipline before the board for which the present application is made and that is substantially related to the qualifications, functions, or duties of the business or profession for which the present application is made. However, prior disciplinary action by a licensing board within the preceding seven years shall not be the basis for denial of a license if the basis for that disciplinary action was a conviction that has been dismissed pursuant to Section

1203.4, 1203.4a, 1203.41, or 1203.42 of the Penal Code or a comparable dismissal or expungement.

(b) Notwithstanding any other provision of this code, a person shall not be denied a license on the basis that he or she has been convicted of a crime, or on the basis of acts underlying a conviction for a crime, if he or she has obtained a certificate of rehabilitation under Chapter 3.5 (commencing with Section 4852.01) of Title 6 of Part 3 of the Penal Code, has been granted clemency or a pardon by a state or federal executive, or has made a showing of rehabilitation pursuant to Section 482.

(c) Notwithstanding any other provision of this code, a person shall not be denied a license on the basis of any conviction, or on the basis of the acts underlying the conviction, that has been dismissed pursuant to Section 1203.4, 1203.4a, 1203.41, or 1203.42 of the Penal Code, or a comparable dismissal or expungement. An applicant who has a conviction that has been dismissed pursuant to Section 1203.4, 1203.4a, 1203.41, or 1203.42 of the Penal Code shall provide proof of the dismissal if it is not reflected on the report furnished by the Department of Justice.

(d) Notwithstanding any other provision of this code, a board shall not deny a license on the basis of an arrest that resulted in a disposition other than a conviction, including an arrest that resulted in an infraction, citation, or a juvenile adjudication.

(e) A board may deny a license regulated by this code on the ground that the applicant knowingly made a false statement of fact that is required to be revealed in the application for the license. A board shall not deny a license based solely on an applicant's failure to disclose a fact that would not have been cause for denial of the license had it been disclosed.

(f) A board shall follow the following procedures in requesting or acting on an applicant's criminal history information:

(1) A board issuing a license pursuant to Chapter 3 (commencing with Section 5500), Chapter 3.5 (commencing with Section 5615), Chapter 10 (commencing with Section 7301), Chapter 20 (commencing with Section 9800), or Chapter 20.3 (commencing with Section 9880), of Division 3, or Chapter 3 (commencing with Section 19000) or Chapter 3.1 (commencing with Section 19225) of Division 8 may require applicants for licensure under those chapters to disclose criminal conviction history on an application for licensure.

(2) Except as provided in paragraph (1), a board shall not require an applicant for licensure to disclose any information or documentation regarding the applicant's criminal history. However, a board may request mitigating information from an applicant regarding the applicant's criminal history for purposes of determining substantial relation or demonstrating evidence of rehabilitation, provided that the applicant is informed that disclosure is voluntary and that the applicant's decision not to disclose any information shall not be a factor in a board's decision to grant or deny an application for licensure.

(3) If a board decides to deny an application for licensure based solely or in part on the applicant's conviction history, the board shall notify the applicant in writing of all of the following:

(A) The denial or disqualification of licensure.

(B) Any existing procedure the board has for the applicant to challenge the decision or to request reconsideration.

(C) That the applicant has the right to appeal the board's decision.

- (D) The processes for the applicant to request a copy of his or her complete conviction history and question the accuracy or completeness of the record pursuant to Sections 11122 to 11127 of the Penal Code.
- (g) (1) For a minimum of three years, each board under this code shall retain application forms and other documents submitted by an applicant, any notice provided to an applicant, all other communications received from and provided to an applicant, and criminal history reports of an applicant.
- (2) Each board under this code shall retain the number of applications received for each license and the number of applications requiring inquiries regarding criminal history. In addition, each licensing authority shall retain all of the following information:
- (A) The number of applicants with a criminal record who received notice of denial or disqualification of licensure.
- (B) The number of applicants with a criminal record who provided evidence of mitigation or rehabilitation.
- (C) The number of applicants with a criminal record who appealed any denial or disqualification of licensure.
- (D) The final disposition and demographic information, consisting of voluntarily provided information on race or gender, of any applicant described in subparagraph (A), (B), or (C).
- (3) (A) Each board under this code shall annually make available to the public through the board's Internet Web site and through a report submitted to the appropriate policy committees of the Legislature deidentified information collected pursuant to this subdivision. Each board shall ensure confidentiality of the individual applicants.
- (B) A report pursuant to subparagraph (A) shall be submitted in compliance with Section 9795 of the Government Code.
- (h) "Conviction" as used in this section shall have the same meaning as defined in Section 7.5.
- (i) This section does not in any way modify or otherwise affect the existing authority of the following entities in regard to licensure:
- (1) The State Athletic Commission.
- (2) The Bureau for Private Postsecondary Education.
- (3) The California Horse Racing Board.
- (j) This section shall become operative on July 1, 2020.

Business and Professions Code
Division 3. Professions and Vocations Generally
Chapter 1. Accountants
Article 6. Disciplinary Proceedings
Section 5100.2

§ 5100.2. (a) In addition to the grounds for the denial of a license pursuant to Section 480 of the Business and Professions Code, the board may deny an applicant for a license if either of the following conditions are met:

(1) The applicant was convicted of a financial crime currently classified as a felony that is substantially related to the qualifications, functions, or duties of a certified public accountant. The seven-year limitation as described in Section 480, subdivision (a), subparagraph (1), shall not apply.

(2) The applicant, within the preceding seven years from the date of application, was subjected to a disciplinary action taken by an agency of the federal government, the Public Company Accounting Oversight Board, or another country for any act substantially related to the functions, qualifications, or duties of a certified public accountant.

(A) Notwithstanding any other law, in causes for denial of an application for licensure pursuant to subdivision (a), subparagraph (2), of this section, the board shall rely on the findings or events stated in a certified or true and correct copy of the disciplinary or other action as conclusive evidence for purposes of determining whether to deny the application.

(b) This section shall become operative on July 1, 2020.



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LC Item II.
January 17, 2019

CBA Item X.B.2.
January 17, 2019

Overview of the California Legislative and Regulatory Process and the Legislative Committee's Role

Presented by: Aaron Bone, Information and Planning Officer

Purpose of the Item

The purpose of this agenda item is to present information regarding the legislative and regulatory process and the role of the California Board of Accountancy's (CBA) Legislative Committee (LC).

Consumer Protection Objectives

This agenda item provides resources to assist the CBA members' role in consumer protection.

Action(s) Needed

None.

Background

One of the main priorities of the LC is to assist the CBA in its consumer protection mandate by reviewing, recommending, and promoting legislation relating to consumer protection and the practice of public accountancy.

Comments

In an effort to ensure CBA's active involvement in the legislative process, staff have continued to communicate and meet with stakeholders and legislative staff to discuss the CBA's position and concerns with proposed legislation. Furthermore, staff participate in all aspects of bill negotiations to promote the CBA's mission.

The CBA's involvement and advocacy has increased our visibility and reputation with the Legislature. Recent success include the passage of Senate Bill 795 and amendments that were secured in Assembly Bill 2138.

The following provides information regarding the legislative and regulatory process employed by the CBA.

Overview of the California Legislative and Regulatory Process and the Legislative Committee's Role

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Legislation

To ensure effective monitoring and the promotion of legislation that furthers the mission of the CBA, staff have established the following legislative best practices:

1. *Identifying, Tracking, and Monitoring Legislation* – Capitol Track and Leginfo are two websites used for tracking legislation. Key search terms are used to identify any bills that may impact the CBA.
2. *Communication* – Staff are continuously in contact with bill authors and their legislative staff, legislative committee staff, other boards and bureaus, the Department of Consumer Affairs (DCA) Division of Legislative and Regulatory Review, and other stakeholders. Below is a list of staff's communication process once a bill, that may impact the CBA, has been identified:
 - Staff will email the author's office to request background information and indicate the CBA's potential interest, as well as extend an invitation to the author or their staff to attend the LC meeting where the bill will be discussed.
 - Staff will email the approved (by the Executive Unit) CBA staff bill analysis to the author's office.
 - Staff will communicate the approved CBA position via a position letter to the author's office; copying the chair of the committee where the bill will be heard next.
3. *Staff Reporting and Keeping the CBA in the Legislative Loop* – Staff provides regular updates at CBA meetings on pertinent bills and facilitates discussions between CBA meetings with legislators and bill authors regarding questions, concerns, and CBA positions. If necessary, staff may initiate a CBA special meeting, between regularly scheduled meetings, so the CBA can take immediate action on pertinent bills, if desired. Furthermore, the Executive Officer's monthly report includes a legislative update. If necessary, staff may update members via email.
4. *Testifying at Legislative Hearings* – If the CBA is a sponsor, or strong supporter of a bill, staff will contact the CBA President to see if s/he would like to testify at the committee hearing and prepare appropriate testimony. If the President is unavailable, another CBA Member or the CBA Executive Officer shall provide the testimony at a committee hearing. The CBA Information and Planning Officer or Legislative Analyst attend hearings for bills the CBA has taken a position on.

Attachment 1, Overview of the Legislative Process, provides information on all necessary steps for a bill to become law in California, and other considerations the CBA may wish to keep in mind as it discusses legislation.

Overview of the California Legislative and Regulatory Process and the Legislative Committee's Role

Page 3 of 3

Attachment 2, Considerations for Taking Positions on Legislation, is meant to assist the CBA when determining what position to take on proposed legislation. As the LC and CBA review proposed legislation, it may be helpful to refer to these considerations.

Regulations

The regulatory process was created by the Legislature to ensure public awareness and participation when state agencies create or amend regulations. The rulemaking process starts with an idea by a CBA member or a concept in the law that needs to be clarified. The CBA typically discusses how to approach the issue and whether or not a rulemaking is needed. After the CBA votes to initiate a rulemaking, staff prepare the appropriate documents and work with DCA, Business, Consumer Services and Housing Agency, and the Office of Administrative Law (OAL) to ensure the rulemaking packet is processed timely.

Attachment 3, Overview of the Regulatory Process, is an overview of the activities associated with making regulatory amendments or additions. The regulatory process created by the Legislature is complex. The process ensures public participation when state agencies develop or modify regulations.

Fiscal/Economic Impact Considerations

There are no fiscal/economic impact considerations.

Recommendation

Staff do not have a recommendation on this agenda item.

Attachments

1. Overview of the Legislative Process
2. Considerations for Taking Positions on Legislation
3. Overview of the Regulatory Process



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Attachment 1

Overview of the Legislative Process

The process by which bills are considered, and laws enacted by the California State Legislature, is commonly referred to as the legislative process. The Legislature maintains a calendar governing the introduction and processing of bills during its two-year regular session. A bill must pass both houses, the Senate and Assembly, and be signed by the Governor before it can become law. Once law, it is subject to judicial review.

The Legislative Process Step-by-Step

Idea

All legislation begins with an idea. Ideas can arise from many different sources, including the California Board of Accountancy (CBA). When the CBA develops an idea, it is analyzed internally and draft statutory language is prepared and presented to the CBA. Upon the CBA's approval, staff then seeks an author.

Author

Most bills are authored by an individual legislator who carries it through the legislative process. When choosing a legislator to sponsor a bill, it is important to do so carefully. Staff may take into consideration the legislator's background, party, voting history, policy interests, committee membership, and how the idea relates to the legislator's constituents.

Introduction

Bills are typically introduced in January and February of each year. No bill may be acted upon until 30 days after its introduction.

Committee Hearings

After introduction, bills go to the Rules Committee of the house of origin, where it is assigned to one or more policy committees for consideration. The majority of bills related to the CBA are expected to be sent to the Assembly Committee on Business and Professions, or the Senate Committee on Business, Professions, and Economic Development. Bills that require the expenditure of funds must also be heard in the fiscal committees: Assembly and Senate Appropriations.

Committee staff prepares bill analyses that are available to the public, which generally summarize the bill's background, describe its policy, fiscal, and economic impact, support, opposition, and other information the staff deem necessary or helpful to legislators as they consider each bill.

Overview of the Legislative Process

Page 2 of 5

During a committee hearing, bills are presented by the legislator authoring the bill or a member of their staff. After the bill is discussed among committee members, it becomes open for public comment. If the bill is of particular interest to the CBA, members and staff may wish to comment on the bill and highlight concerns or support for the bill.

Floor Vote

Bills passed by committees are then considered by the full house (Senate or Assembly). While the bill is on the floor, discussion is restricted to the legislators elected to that house. Most bills require a majority vote (21 in the Senate and 41 in the Assembly) to pass that house. Bills that require an appropriation, or that take effect immediately, generally require 27 votes in the Senate and 54 votes in the Assembly to be passed.

Once the bill is approved by the house of origin, it proceeds to the other house where the process is repeated.

Resolution of Difference

Both houses of the Legislature must approve the same version of the bill. If a bill is amended in the second house, it must go back to the house of origin for a concurrence vote to agree on the amendments. If agreement cannot be reached, the bill may be referred to a two-house conference committee to resolve differences. Three members of the committee are from the Senate and three are from the Assembly. If a compromise is reached, the bill is returned to both houses for a final vote.

Governor

Once both houses approve the bill, it goes before the Governor. The Governor has three options: sign, veto, or do nothing. If the Governor signs the bill, it goes into effect. If the Governor takes no action on the bill within 12 days of receipt, it will go into effect without his or her signature. The Governor may have up to 30 days to sign or veto bills passed by the Legislature in the final weeks of the legislative session each calendar year. If the Governor vetoes the bill, the veto can be overridden by a two-thirds vote in both houses.

Effective Dates

If the bill is an urgency measure, it will go into effect immediately after it is signed or allowed to go into law. If the bill is not an urgency measure, it will go into effect January 1 of the following calendar year, unless otherwise specified in the bill.

Considerations for Sponsoring a Legislative Agenda

When putting together a legislative agenda, there are several key factors to be considered. The following is a discussion of the major factors the CBA faces when it considers sponsoring legislation.

DCA Involvement

The Department of Consumer Affairs (DCA) can be a valuable ally in the legislative process. DCA may offer assistance to the CBA by helping ensure the bill language is clear and accomplishes the desired result, and advocating in favor of our legislation.

Overview of the Legislative Process

Page 3 of 5

When DCA takes a position on a bill, it is called an “approved position.” Since DCA is a department of the executive branch, it cannot take a position without the Governor’s approval.

CBA Member Participation

CBA members play a significant role in advancing the CBA’s legislative agenda. The Legislature may rely on the professional expertise from the industry to gain a stronger understanding of the issue. CBA members wishing to contact members of the Legislature should first involve CBA staff. CBA staff will schedule an appointment and work to ensure you are properly prepared for the discussion.

Be Willing to Compromise

Throughout the legislative process, various committees and legislators may seek to amend bills. Bills are often amended during the legislative process prior to being signed by the Governor.

Even though the CBA may sponsor a bill, it does not have authority over that bill. Frequently, the author will defer to the sponsor of a bill when deciding whether or not to accept an amendment. However, that is not always the case. If an author takes an amendment that the CBA does not like, it has three options.

1. Accept the amendment. It may not be exactly what the CBA would like, but may be workable.
2. Ask the author to amend the bill to an acceptable form. This can be very tricky. Once an author accepts an amendment from a committee or another member, the intent of that amendment is typically maintained or the author could be seen by fellow legislators as going back on their word or may lose needed support for the bill.
3. Remove sponsorship of the bill. The CBA has no power to stop the author from going forward with the bill, but it is not required to continue its sponsorship. It may issue a letter of opposition, if appropriate.

Some Bills Just Die

Sometimes bills die due to fiscal impacts and political factors outside the CBA’s control, despite the CBA’s best efforts.

2019 Tentative Legislative Calendar

Members may wish to review the calendar provided on the following pages for more information regarding important legislative dates.

Overview of the Legislative Process

2019 TENTATIVE LEGISLATIVE CALENDAR
 COMPILED BY THE OFFICE OF THE SECRETARY OF THE SENATE AND THE OFFICE OF THE CHIEF CLERK
 October 31, 2018 (revised)

DEADLINES

JANUARY						
S	M	T	W	TH	F	S
		<u>1</u>	2	3	4	5
6	<u>7</u>	8	9	<u>10</u>	11	12
13	14	15	16	17	18	19
20	<u>21</u>	22	23	24	<u>25</u>	26
27	28	29	30	31		

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

MARCH						
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	<u>29</u>	30
31						

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

MAY						
S	M	T	W	TH	F	S
			1	2	<u>3</u>	4
5	6	7	8	9	<u>10</u>	11
12	13	14	15	16	<u>17</u>	18
19	20	21	22	23	24	25
26	<u>27</u>	<u>28</u>	<u>29</u>	<u>30</u>	<u>31</u>	

- [Jan. 1](#) Statutes take effect (Art. IV, Sec. 8(c)).
- [Jan. 7](#) Legislature **reconvenes** (J.R. 51(a)(1)).
- [Jan. 10](#) Budget must be submitted by Governor (Art. IV, Sec. 12(a)).
- [Jan. 21](#) Martin Luther King, Jr. Day.
- [Jan. 25](#) Last day to submit **bill requests** to the Office of Legislative Counsel.

- [Feb. 18](#) Presidents' Day.
- [Feb. 22](#) Last day for **bills to be introduced** (J.R. 61(a)(1)), (J.R. 54(a)).

- [Mar. 29](#) Cesar Chavez Day observed.

- [Apr. 11](#) **Spring recess** begins upon adjournment of this day's session (J.R. 51(a)(2)).
- [Apr. 22](#) Legislature **reconvenes** from Spring recess (J.R. 51(a)(2)).
- [Apr. 26](#) Last day for **policy committees** to hear and report to **fiscal committees** **fiscal bills** introduced in their house (J.R. 61(a)(2)).

- [May 3](#) Last day for **policy committees** to hear and report to the Floor **nonfiscal bills** introduced in their house (J.R. 61(a)(3)).
- [May 10](#) Last day for **policy committees** to meet prior to June 3 (J.R. 61(a)(4)).
- [May 17](#) Last day for **fiscal committees** to hear and report to the Floor bills introduced in their house (J.R. 61(a)(5)). Last day for **fiscal committees** to meet prior to June 3 (J.R. 61(a)(6)).
- [May 27](#) Memorial Day.
- [May 28-31](#) **Floor Session Only.**
No committees, other than conference or Rules committees, may meet for any purpose (J.R. 61(a)(7)).

- [May 31](#) Last day for bills to be **passed out of the house of origin** (J.R. 61(a)(8)).

Overview of the Legislative Process

2019 TENTATIVE LEGISLATIVE CALENDAR

COMPILED BY THE OFFICE OF THE SECRETARY OF THE SENATE AND THE OFFICE OF THE CHIEF CLERK
October 31, 2018 (revised)

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

[Jun. 3](#) Committee meetings may resume (J.R. 61(a)(9)).

[Jun. 15](#) **Budget Bill** must be passed by **midnight** (Art. IV, Sec. 12(c)(3)).

JULY						
S	M	T	W	TH	F	S
	1	2	3	<u>4</u>	5	6
7	8	9	<u>10</u>	<u>11</u>	<u>12</u>	13
14	15	16	17	18	19	20
21	22	23	24	25	26	27
28	29	30	31			

[Jul. 4](#) Independence Day.

[Jul. 10](#) Last day for **policy committees** to hear and report **fiscal bills** to **fiscal committees** (J.R. 61(a)(10)).

[Jul. 12](#) Last day for **policy committees** to meet and report bills (J.R. 61(a)(11)). **Summer recess** begins upon adjournment of this day's session, provided Budget Bill has been passed (J.R. 51(a)(3)).

AUGUST						
S	M	T	W	TH	F	S
				1	2	3
4	5	6	7	8	9	10
11	<u>12</u>	13	14	15	16	17
18	19	20	21	22	23	24
25	26	27	28	29	<u>30</u>	31

[Aug. 12](#) **Legislature reconvenes** from Summer recess (J.R. 51(a)(3)).

[Aug. 30](#) Last day for **fiscal committees** to meet and report bills to Floor (J.R. 61(a)(12)).

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

[Sep. 2](#) Labor Day.

[Sep. 3-13](#) **Floor Session Only.** No committees, other than conference and Rules committees, may meet for any purpose (J.R. 61(a)(13)).

[Sep. 6](#) Last day to **amend bills on the floor** (J.R. 61(a)(14)).

[Sep. 13](#) Last day for **each house to pass bills** (J.R. 61(a)(15)). **Interim Study Recess** begins upon adjournment of this day's session (J.R. 51(a)(4)).

*Holiday schedule subject to Senate Rules committee approval.

IMPORTANT DATES OCCURRING DURING INTERIM STUDY RECESS

2019

[Oct. 13](#) Last day for Governor to sign or veto bills passed by the Legislature on or before Sep. 13 and in the Governor's possession after Sep. 13 (Art. IV, Sec.10(b)(1)).

2020

[Jan. 1](#) Statutes take effect (Art. IV, Sec. 8(c)).

[Jan. 6](#) Legislature reconvenes (J.R. 51 (a)(4)).



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Attachment 2

Considerations for Taking Positions on Legislation

As new bills are introduced or amended in the Legislature, the California Board of Accountancy (CBA) may take a variety of positions, which are outlined below. Introduced legislation rarely passes through the legislative process without amendments and those amendments may change the CBA's position. Should the CBA take a position on a bill, staff will track the legislation and update the CBA on any developments.

Positions the CBA May Take

Sponsor:

The CBA is the sponsor of a bill, meaning the CBA participated in the development of the legislation, will provide technical assistance to the author on any related policy areas, and advocate its passage.

Support:

CBA supports the bill as currently written and sends a letter of support to interested legislators. The CBA may decide to take proactive action in favor of the bill.

Support if Amended:

The CBA supports the concept, or certain portions of the bill, but requests an amendment to obtain the CBA's full support. This position would be communicated to legislators along with the requested amendment. If the CBA's amendment is accepted without further significant amendments, the CBA's position will be changed automatically to support the bill, and a letter reflecting this new position will be sent to the Legislature.

Neutral:

The bill in question may affect the CBA's interests in some way, but the CBA does not have a formal position. If the CBA adopts a Neutral position, it may wish to consider sending a letter to explain its viewpoint.

Oppose unless Amended:

The CBA opposes the bill as presently written, but if the bill were amended as requested by the CBA, the CBA's position would change to neutral. This position will be communicated to the author and other legislators, along with the suggested amendment. If the CBA's amendment is accepted without a

Considerations for Taking Positions on Legislation

Page 2 of 2

significant change, a letter will be sent withdrawing the CBA's opposition and stating a new position.

Oppose:

The CBA opposes the bill. There are no reasonable or anticipated amendments that would change the CBA's position. The CBA would send a letter of opposition to the author and other legislators and may consider taking proactive action against the bill.

Watch:

The bill may develop into an item of interest for the CBA. Staff will continue to monitor the bill and update the CBA on any developments.

Discontinue Following:

The bill has changed in such a way that it is no longer of interest to the CBA. Staff will stop monitoring and providing updates on the bill.

Throughout the legislative process, staff will track the bills that the CBA takes a position on, and monitor other legislation that may be of interest to the CBA.



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Attachment 3

Overview of the Regulatory Process

What Is the Regulatory Process?

The regulatory process was created by the Legislature to ensure public awareness and participation when state agencies create or amend regulations. This process is presented in graphic form on the last page of this attachment and illustrates the sequence of actions.

What is a Regulation?

A regulation implements, interprets, or makes specific the statutes enforced by a state agency or to govern its procedure. A regulation has the full force of law.

Rulemaking Authority

The California Constitution established the Legislative, Executive and Judicial branches and gave each their own separate powers. The Legislature's responsibility is to make law, and the Executive's is to enforce the law. However, the statutes written by the Legislature may require additional clarity or specificity. To do so, the Legislature typically delegates the writing of these details to those who are tasked with enforcing the law, the Executive branch.

Specifically, in the case of the California Board of Accountancy (CBA) section 5010 of the Accountancy Act reads as follows:

The board may adopt, repeal, or amend such regulations as may be reasonably necessary and expedient for the orderly conduct of its affairs and for the administration of this chapter. The regulations shall be adopted in accordance with Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code.

This delegation of authority from the Legislature permits the CBA to engage in the regulatory process. That process is spelled out in Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code, otherwise known as the Administrative Procedures Act (APA). The purpose of the APA is to provide the public with a meaningful opportunity to participate in the adoption of regulations by state agencies and ensure the creation of an adequate record for the public and judicial review. The Office of Administrative Law (OAL) is charged with ensuring that agencies comply with the APA.

Overview of the Regulatory Process

Page 2 of 6

Emergency Regulations

If an emergency situation exists, an emergency rulemaking process can be initiated. According to the Government Code, an “emergency” means a situation that calls for immediate action to avoid serious harm to the public peace, health, safety, or general welfare. The timeline is significantly reduced between the emergency and regular rulemaking processes.

Pre-Notice Steps

The rulemaking process starts with an idea by a CBA member or a concept in the law that needs to be clarified. The CBA typically discusses how to approach the issue and whether or not a rulemaking is needed. After the CBA votes to initiate a rulemaking, four documents must then be created: the Proposed Regulatory Language, the Notice of Proposed Action, the Initial Statement of Reasons, and the Economic/Fiscal Impact Statement.

Proposed Regulatory Language

Typically, the regulatory language is prepared by CBA staff for presentation at a CBA meeting. During the meeting, the CBA comments on the proposed language and makes any changes it deems necessary. The proposed language always takes the form of strikethrough (text being deleted from regulations) and underline (text added to the regulations) to make clear to the public and other stakeholders what changes are being proposed.

Notice of Proposed Action (Notice)

The Notice is an announcement to the public that the CBA is undertaking a rulemaking and an invitation to participate in the process. The Notice lists the time and place of the public hearing on the regulations and provides CBA staff contact information for those who wish to submit comments.

In addition, the Notice provides an Informative Digest/Policy Statement Overview which lays out the scope of the rulemaking. Specifically, it identifies current law and how the proposed changes will affect that law.

Initial Statement of Reasons (ISR)

The purpose of the ISR is to explain why the CBA is making the proposed changes.

The ISR must, for each proposed adoption, amendment, or repeal, identify the specific purpose of it, the problem it is meant to address, and the CBA’s rationale for why it is necessary to carry out the described purpose. The ISR also identifies any studies, reports, or other documents the CBA may have relied upon in coming to its conclusions. Finally, the ISR must describe reasonable alternatives to the proposal and why each alternative was rejected.

Overview of the Regulatory Process

Page 3 of 6

The Economic/Fiscal Impact Statement (Form 399)

Form 399 explains the economic impact and fiscal costs and benefits to the private sector and state and local governments. The Form 399 must be reviewed and signed by the Department of Consumer Affairs (DCA), the Secretary of the Business, Consumer Services, and Housing Agency (Agency), and the Department of Finance (DOF).

DCA and Agency Initial Review and Approval

The four documents – the proposed regulatory language, the Notice, the ISR, and the Form 399 – must be submitted to DCA and Agency for review and approval, prior to requesting OAL publish the public notice and initiate the rulemaking process.

Starting the Regulatory Clock

Publishing the Notice

After OAL publishes the Notice, the APA gives agencies one year to submit the rulemaking package to OAL for review. The notice being published also starts the 45-day public comment period.

On or before the date of publication, the CBA must send the Notice to the following:

- OAL for publication;
- Any interested parties that have requested to be notified of rulemakings; and
- Posted to the CBA website (including the ISR and proposed language).

This provides the public with an opportunity to participate in the rulemaking process. Following publication, a member of the public may submit comments to the CBA in any way they choose. The CBA must then consider and respond to each comment.

Public Hearing

The public hearing on the proposal, which was identified in the Notice, may be scheduled any time after the end of the 45-day comment period. At the public hearing, additional public comments are often received orally or in writing. While the CBA has chosen to hold these public hearings at CBA meetings, this is not a requirement, provided the CBA members consider all the comments received prior to adopting a proposal.

Adoption of the Proposal

Following the public hearing and consideration of all public comments, the CBA is authorized to do one of two things, assuming it wishes to proceed. First, it may adopt the proposal with no changes and move forward with the regulatory process and prepare a Final Statement of Reasons (FSR). Second, it may request changes to the proposal, and authorize the proposal's adoption following a 15-Day Notice of Modified Text (15-day Notice) if no substantive comments are received. Typically, this is the final stage for input by CBA members during the rulemaking process due to the fact that

Overview of the Regulatory Process

Page 4 of 6

comments during the 15-day period are very rare for the CBA. However, if such comments are received they may warrant additional discussion by the CBA or a second 15-Day Notice.

Finalizing the Regulatory Package

15-Day Notice of Modified Text

If changes are made to the regulation language, CBA must ensure the changes are within the original scope of the rulemaking as outlined by the original Notice. If they are, the CBA must prepare the modified text and a 15-Day Notice for public review. The revised language and 15-day notice must be sent to:

- Anyone who made comments on the original proposal;
- Anyone who requested to be informed of changes to the proposal; and
- Posted to the CBA's website

This is a smaller group than those who received the original Notice, and no public hearing is required on these changes. The public has 15 days to comment, and the comments must pertain to the changes only, not the original proposal. If substantive or adverse comments are received, they must be considered by the CBA prior to the proposal moving forward.

Final Statement of Reasons (FSR)

Once the public participation phase of the process is complete, the CBA finalizes its rulemaking by preparing an FSR. The FSR updates the ISR and provides any reasoning for changes that were made to the original proposal.

In addition, the FSR is where the CBA responds to any comments that were received from the public. Each comment must be responded to by the CBA and either accepted or rejected. If a comment is rejected, adequate reasons must be provided in the FSR. If a comment is accepted, it is usually through a change that was made to the proposed language.

Approval Process

Once the CBA finalizes a rulemaking package, it is reviewed by DCA. The Director has 30 days to review the file, but others within DCA, such as Legal and Budget Offices, are not given a time limit, and this DCA review can take up to two months, or more, depending on the complexity of the rulemaking package.

Upon approval by DCA, the rulemaking package is submitted to Agency for the initial phase of review. Agency has requested that CBA files be presented to the Agency Secretary no less than three months prior to the one year deadline for submission to OAL.

Overview of the Regulatory Process

Page 5 of 6

Agency returns the file to DCA which then submits it to DOF for its signature on the Form 399. Although DOF has no timeline in law, its goal is to review within 30 days. However, according to DOF, due to the high volume of DCA rulemaking requests, their review may take up to three months or more. In the event that DOF does not approve the Form 399, the CBA can either withdraw the rulemaking or submit the unsigned rulemaking to OAL, resulting in an automatic denial by OAL.

After DOF signs the Form 399, the rulemaking file goes through a final review at Agency and is returned to the CBA. The CBA then officially closes the file, and submits the entire rulemaking file to OAL for approval.

OAL Review

Once the entire rulemaking file is submitted, OAL has 30 working days to take action on the file. This usually means 40-45 calendar days depending on state holidays.

When OAL reviews a rulemaking file, they compare those documents to the six standards established in the APA: authority, reference, consistency, clarity, non-duplication, and necessity. Authority and reference are found in the proposed language and identify the code sections that give the CBA rulemaking authority and identify which sections are being “implemented, interpreted, or made specific.” Consistency and clarity are determined by OAL as they decide whether the proposal violates or contradicts statute or the California Constitution, and whether the proposal is easily understood without further interpretation. Non-duplication means that agencies are not allowed to copy statutory code sections into their regulations as it is unnecessary and potentially confusing. The final standard is necessity, and it means the rulemaking must demonstrate by substantial evidence the need for the regulation to effectuate the purpose of the statute, court decision, or other provision of law that the regulations implement, interpret, or make specific, taking into account the totality of the record.

OAL may then either approve or disapprove the file. If disapproved, it is returned to the CBA. The CBA may then issue a 15-Day Notice to fix any deficiencies and resubmit to OAL within 120 days, or it may restart the entire process and issue a new Notice. In addition, the CBA may appeal OAL’s disapproval to the Governor, but this is very rarely done.

If OAL approves the rulemaking, it is filed with the Secretary of State (SOS) for publishing in the California Code of Regulations (CCR). The date that OAL files with the SOS determines the effective date of the new regulation, unless a later date is requested by the CBA. Regulations typically become effective on a quarterly basis depending on the date filed with the SOS as follows:

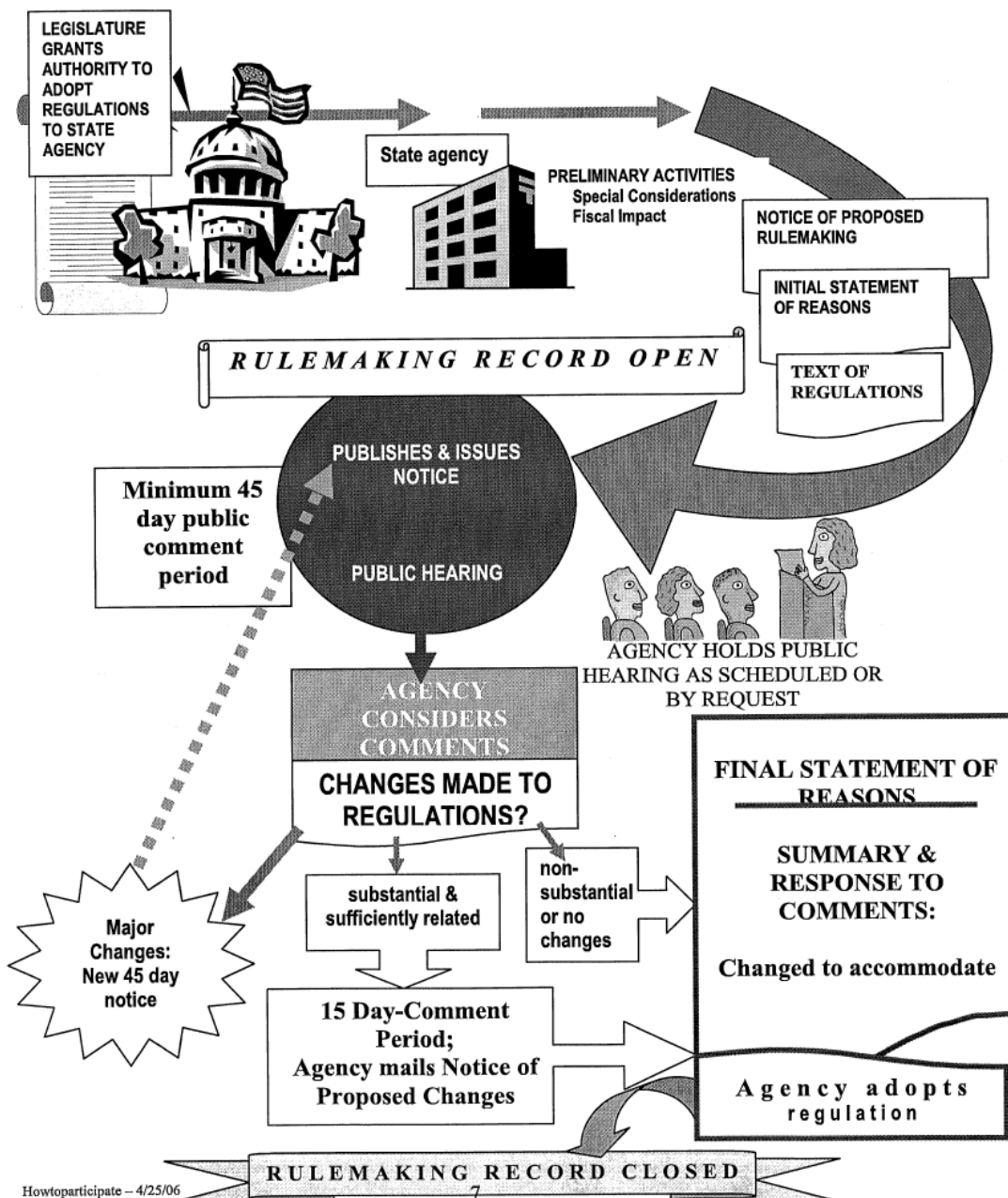
- January 1, if filed between September 1 and November 30;
- April 1, if filed between December 1 and February 29;
- July 1, if filed between March 1 and May 31;
- October 1, if filed between June 1 and August 31.

Overview of the Regulatory Process

It is important to note that “effective” means that the regulation has been published in the CCR and is now a part of the law. A regulation could be “operative” on a date that is later than its effective date. An example of this would be the CBA’s fingerprinting regulations, which was effective (published in the CCR) in January 2013. This regulation was not operative until January 1, 2014, because the later operative date was a part of the regulation itself.

Once the regulation is printed in the CCR it becomes law, thereby concluding the regulatory process. Although the rulemaking process may be complicated, the chart below outlines the essential steps in the rulemaking process:

The Rulemaking Process





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LC Item III.
January 17, 2019

CBA Item X.B.3.
January 17, 2019

**Update on Legislative Proposal for Inclusion in the 2019 Annual Omnibus Bill –
Business Professions Code Sections 5100.1 – Determining Discipline: Certified or
True and Correct Copies of Action**

Presented by: Aaron Bone, Information and Planning Officer

Purpose of Item

The purpose of this agenda item is to provide the California Board of Accountancy (CBA) with information regarding proposed language for inclusion in the Senate Committee on Business, Professions and Economic Development (B&P) 2019 annual omnibus bill.

Consumer Protection Objectives

This proposal will protect consumers by ensuring the law is accurate and current.

Action(s) Needed

No action is required. Staff previously submitted this language to the Legislature. If included in an omnibus bill, the CBA will have the opportunity to take a position at a future meeting.

Background

Each year the Senate B&P Committee provides an opportunity for Department of Consumer Affairs' boards and bureaus to submit proposals for consideration in an omnibus bill. Omnibus bills typically include statutory changes that are non-controversial, non-substantive, and intended to clarify, update, or strengthen current law.

Comments

During its November 2017 meeting, the CBA approved a proposal to require the CBA to rely on certified or true and correct copies of disciplinary, or other, action as conclusive evidence for the purpose of determining discipline.

This proposal was included in the 2018 Senate B&P omnibus bill (Senate Bill 1492 (Chapter 422 of 2018 Statutes)), which added Business and Professions Code (BPC) section 5100.1.

**Update on Legislative Proposal for Inclusion in the 2019 Annual Omnibus Bill –
Business Professions Code Sections 5100.1 – Determining Discipline: Certified or
True and Correct Copies of Action**

Page 2 of 2

The language enacted into law uses the word “subsections” to refer to certain causes of action the CBA may take against licensees, pursuant to BPC section 5100(d), (h), or (l). These subdivisions refer to specific causes for discipline, specifically actions taken by other state or governmental agencies.

Staff are informed that “subsections” has a different meaning and, therefore, is not the correct term to use, rather “subdivisions” is the appropriate word to use in this context. The proposed amendments to BPC section 5100.1 (**Attachment**) would replace the word “subsections” with the word “subdivisions.”

Fiscal/Economic Impact Considerations

There are no fiscal/economic impact considerations.

Recommendation

Staff do not have a recommendation for this item.

Attachment

Proposed Amendments to BPC Section 5100.1

**California Board of Accountancy**

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**Attachment****Business and Professions Code Section 5100.1**

5100.1.

Notwithstanding any other law, in causes for discipline against a licensee under ~~subsections~~ subdivisions (d), (h), or (l) of Section 5100, the board shall rely on the findings or events stated in a certified or true and correct copy of the disciplinary or other action as conclusive evidence for the purpose of determining discipline.



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LC Item IV.
January 17, 2019

CBA Item X.B.4.
January 17, 2019

Update on the California Board of Accountancy's Sunset Review

Presented by: Aaron Bone, Information and Planning Officer

Purpose of the Item

The purpose of this agenda item is to provide the California Board of Accountancy (CBA) an update on the process and timelines for the CBA's upcoming sunset review.

Consumer Protection Objectives

This agenda item helps ensure the CBA continues to fulfill its mission of consumer protection and adheres to the California State Legislature's review process.

Action(s) Needed

No specific action is required on this agenda item.

Background

The California State Legislature created the sunset review process in 1994 to further its oversight responsibilities. Each year, the Assembly Business and Professions (B&P) Committee and the Senate B&P Committee meet in a joint hearing to review the boards and bureaus under the Department of Consumer Affairs (DCA).

The term "sunset" is used because the statutory authority of those DCA boards and bureaus, including the CBA, contain a deadline for the legislature to reauthorize the authority of that board or bureau.

Business and Professions Code (BPC) section 5000, which establishes the CBA and its membership, contains the sunset provision that states, "This section shall remain in effect only until January 1, 2020, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2020, deletes or extends that date."

Therefore, if the Legislature does not change that date by the end of 2019, the membership of the CBA and its authority, would be dissolved.

A similar provision is in BPC section 5015.6, which establishes the CBA's authority to appoint an Executive Officer.

The CBA Sunset Report was delivered to the staff of the Assembly B&P Committee and Senate B&P Committee on November 29, 2018.

Update on the California Board of Accountancy's Sunset Review

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Comments

Following the delivery of the CBA Sunset Report, staff have engaged in proactive discussions with committee staff regarding the CBA's sunset review.

On December 14, 2018, CBA President George Famalett, CPA, CBA Vice-President Mark Silverman, Esq., and CBA Executive Officer Patti Bowers met with staff from the Business, Consumer Services, and Housing Agency and DCA to discuss the CBA's sunset review. The meeting provided an opportunity to highlight issues identified in the CBA Sunset Report and receive additional information and guidance regarding the sunset review process. The expected next steps include:

Early/Mid-January 2019

- Committee staff form recommendations related to the CBA's sunset review

January/February 2019

- CBA staff meet with staff of the Members of the Senate and Assembly B&P Committees

February/March 2019

- Introduction of an Assembly Bill to extend CBA sunset provisions and committee staff provide written questions/comments for CBA response
- Joint Senate/Assembly B&P committee hearing held. During this hearing, the CBA President and Executive Officer will provide testimony and respond to questions from legislators

March/April 2019

- Assembly Bill amended to include other statutory changes requested by CBA or Legislature

April 2019

- Assembly Bill considered in an Assembly B&P Committee hearing. If approved by the Assembly B&P Committee, the Assembly Bill continues through the legislative process

As many of the above steps are expected to occur prior to the March 21-22, 2019 CBA meeting, staff will provide timely updates to the CBA on key developments. Staff will also provide a report at the March 2019 meeting.

Fiscal/Economic Impact Considerations

None.

Recommendation

Staff do not have a recommendation for this item.

Attachment

None.

**California Board of Accountancy**2450 Venture Oaks Way, Suite 300
Sacramento, CA 95833*phone:* (916) 263-3680 *fax:* (916) 263-3675 *web:* www.cba.ca.gov**LC Item V.A-H.**
January 17, 2019**CBA Item X.B.5.a-h.**
January 17, 2019**Review and Possible Consideration of Positions on Legislation the California Board of Accountancy is Monitoring****Presented by:** Aaron Bone, Information and Planning Officer**Purpose of the Agenda**

The purpose of this agenda item is to provide the California Board of Accountancy (CBA) with a list of spot bills that may eventually impact the CBA and bills related to the regulation of the cannabis industry.

Consumer Protection Objectives

This agenda item allows for the CBA to be informed of potential bills that may impact the CBA.

Action(s) Needed

No specific action is required on this agenda item.

Background

A spot bill is a bill that amends a code section in a nonsubstantive way. A spot bill may be introduced to ensure it meets the legislative bill introduction deadline and is available for the author to amend with substantive provisions at a later date.

Further, the CBA has directed staff to monitor legislation related to the regulation of the cannabis industry.

Comments

The following bills are being monitored by staff as they are either spot bills or pertain to the regulation of the cannabis industry. If a bill is amended in a manner that makes it relevant to the CBA, an analysis will be conducted by staff and presented to the CBA at a future meeting, along with the text of the proposed legislation.

Spot bills:

- Assembly Bill (AB) 25, Chau – California Consumer Privacy Act of 2018.
- AB 63, Fong – State Government.
- Senate Bill (SB) 53, Wilk – Open Meetings.

Cannabis-related bills:

- AB 3, Cooper – Cannabis: Sale to Minors.

Review and Possible Consideration of Positions on Legislation the California Board of Accountancy is Monitoring

Page 2 of 2

- AB 37, Jones-Sawyer – Personal Income Taxes: Deductions: Business Expenses: Commercial Cannabis Activity.
- AB 141, Cooper – Cannabis: Informational, Educational, or Training Events.
- SB 34, Wiener – Cannabis: Donations.
- SB 51, Hertzberg – Financial Institutions: Cannabis.

Fiscal/Economic Impact Considerations

There are no fiscal/economic impact considerations at this time.

Recommendation

Staff will continue to monitor these bills and bring to future CBA meetings if appropriate.

Attachment

None.

**CALIFORNIA BOARD OF ACCOUNTANCY
LEGISLATIVE ANALYSIS
SB 51**

Subject: Financial Institutions: Cannabis.	Author: Hertzberg
Version: 12/4/2018	Sponsor: Author
Status: Senate Rules – Pending Referral	

Summary

Senate Bill (SB) 51 (**Attachment**) would establish cannabis limited charter banks (CLCBs) and cannabis limited charter credit unions (CLCCUs) to provide limited banking services to the cannabis industry. This bill would also create the Cannabis Limited Charter Bank and Credit Union Advisory Board (Board) comprised of the State Treasurer, the State Controller, the Chief of the Bureau of Cannabis Control, and the Director of the Department of Finance (non-voting member).

Background

The Control, Regulate and Tax Adult Use of Marijuana Act of 2016, an initiative measure approved as Proposition 64 at the November 8, 2016, statewide general election, authorizes a person who obtains a state license under the act to engage in commercial adult-use cannabis activity pursuant to that license and applicable local ordinances. The Medicinal and Adult-Use Cannabis Regulation and Safety Act, among other things, consolidates the licensure and regulation of commercial medicinal and adult-use cannabis activities.

Analysis

SB 51 is substantially similar to SB 930 (Hertzberg), which was introduced in 2018. The CBA adopted a Watch position on SB 930 at its July 26, 2018 meeting. SB 930 was held in the Assembly Appropriations Committee and, therefore, not approved by the Legislature.

SB 51 provides for the licensure and regulation of CLCBs and CLCCUs for the purpose of providing limited banking services, as defined, to cannabis businesses. The bill would require a person who desires to be licensed as a CLCB or CLCCU to submit an application to the Department of Business Oversight (DBO), and would require that person to elect to form under either the Banking Law or the California Credit Union Law. The bill would authorize the DBO to charge an applicant for a cannabis limited charter bank or credit union license a reasonable fee.

SB 51 would authorize CLCBs and CLCCUs to accept and maintain cash deposits and issue special purpose checks that may only be used for the following:

- To pay fees or taxes to the state or a local jurisdiction,
- To pay rent on property that is associated with the account holder's cannabis business,

SB 51

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- To pay vendors located in California for expenses related to goods and services associated with the account holder's cannabis business, or
- To purchase bonds or interest-bearing notes or warrants backed by the full faith and credit of the state, or bonds or warrants of local jurisdictions.

These special purpose checks must include the following text on each check:

"This check is issued by [insert name of bank] and may only be deposited or cashed at this cannabis limited charter bank or credit union or another cannabis limited charter bank or credit union that agrees to accept the check."

Fiscal Estimate

An estimate of the fiscal impact of SB 51 is not available at this time. However, according to the Assembly Appropriations Committee analysis of SB 930, that bill would have created ongoing costs to DBO in the range of \$2 million each year to adopt emergency regulations, process applications, conduct examinations, and enforce the provisions of the bill.

Recommendation

Watch: In light of the CBA's previous position on SB 930 and because the bill does not directly impact the mission or operations of the CBA, staff recommend a Watch position on SB 51.

Support/Opposition

Support: None at this time.

Opposition: None at this time.

Effective/Operative Date

January 1, 2020.

Related Bills

- SB 930 (Hertzberg), 2017-2018 Legislative Session. Would have the same impact as SB 51. (Was not approved by the Legislature)

Attachments

1. SB 51
2. SB 51 Fact sheet

SENATE BILL

No. 51

Introduced by Senator Hertzberg

(Principal coauthor: Assembly Member Bonta)

(Coauthors: Senators Galgiani, Moorlach, Wieckowski, and Wiener)

(Coauthors: Assembly Members Jones-Sawyer, Lackey, and McCarty)

December 4, 2018

An act to amend Sections 99, 185, 301, 329, 1003, and 14001.1 of, and to add Division 2.5 (commencing with Section 11000) to, the Financial Code, relating to financial institutions.

LEGISLATIVE COUNSEL'S DIGEST

SB 51, as introduced, Hertzberg. Financial institutions: cannabis.

(1) Existing law, the Financial Institutions Law, regulates the activities of various financial entities, including commercial banks, industrial banks, trust companies, credit unions, and savings and loan associations. The Banking Law defines and regulates state banks and commits the enforcement of banking laws to the Commissioner of Business Oversight. The California Credit Union Law provides for the licensure and regulation of credit unions by the Commissioner of Business Oversight and makes a willful violation of that law a crime.

The Control, Regulate and Tax Adult Use of Marijuana Act, an initiative measure approved as Proposition 64 at the November 8, 2016, statewide general election, authorizes a person who obtains a state license under the act to engage in commercial adult-use cannabis activity pursuant to that license and applicable local ordinances. The Medicinal and Adult-Use Cannabis Regulation and Safety Act, among other things, consolidates the licensure and regulation of commercial medicinal and adult-use cannabis activities.

This bill would create the Cannabis Limited Charter Banking and Credit Union Law, to be administered by the Commissioner of Business

Oversight and the Department of Business Oversight. The bill would create the Cannabis Limited Charter Bank and Credit Union Advisory Board and specify its composition, to include the Treasurer, the Controller, and the Chief of the Bureau of Cannabis Control, and commit to it the general responsibility for ensuring that this law functions in a safe and efficient way. The bill would prescribe the powers and duties of the board, including reviewing department enforcement reports, holding meetings that would be open to public comment, and issuing its own recommendations, which would be submitted to the Legislature and the Governor. The board would also be required to provide guidance on specified investment activities.

The bill would provide for the licensure and regulation of cannabis limited charter banks and credit unions for the purpose of providing banking services, as defined, to cannabis businesses. The bill would require a person who desires to be licensed as a cannabis limited charter bank or credit union to submit an application to the department, and would require that person to elect to form under either the Banking Law or the California Credit Union Law. The bill would authorize the department to charge an applicant for a cannabis limited charter bank or credit union license a reasonable fee. The bill would require a licensee to comply with all requirements in the Financial Institutions Law, and either the Banking Law or the California Credit Union Law, as applicable, except to the extent that any requirement of those laws are inconsistent with a provision of the Cannabis Limited Charter Banking and Credit Union Law. By expanding the application of the California Credit Union Law, a willful violation of which is a crime, the bill would impose a state-mandated local program. The bill would require a cannabis limited charter bank or credit union to adopt policies and practices to achieve the principles and goals outlined in the federal Bank Secrecy Act and cooperate with the federal Financial Crimes Enforcement Network. The bill would prohibit a cannabis limited charter bank or credit union from engaging in banking activity with any other financial institution that lacks a limited purpose charter issued under these provisions.

This bill would authorize a cannabis limited charter bank or credit union to issue to an account holder special purpose checks that would be valid for only specified purposes. The bill would authorize a cannabis limited charter bank or credit union to cash the checks it has issued, including those presented by parties that are not account holders, as specified. The bill would permit these checks to be used for the payment

of state and local fees and taxes, payment of rent on property leased by, or on behalf of, the account holder's cannabis business, payment of vendors physically located in California, as specified, and the purchase of state and local bonds, as specified. The bill would provide that a person or entity is not required to accept these checks. The bill would require a cannabis limited charter bank or credit union to obtain and maintain insurance at all times that it is engaged in business, subject to certain requirements including that the insurance be in an amount acceptable to the commissioner. The bill would authorize a cannabis limited charter bank or credit union to charge fees for its banking services, and would authorize the commissioner, if requested by any person or whenever the commissioner deems appropriate, to review any fee charged. The bill would require a cannabis limited charter bank and credit union to provide the commissioner with a specified fee schedule, which information the department would be required to compile and post information on its Internet Web site. The bill would authorize a cannabis limited charter bank or credit union to enter into an agreement with another licensee to form a banking network, subject to the approval of the commissioner, to facilitate the provision of cannabis banking services.

The bill would require the Department of Business Oversight to adopt emergency regulations and would prohibit the department from issuing a license for these purposes prior to July 1, 2020, except as specified. The bill would require the department to provide a specified report to the Senate Committee on Banking and Financial Institutions and the Senate Committee on Governance and Finance.

The bill would also make a statement of legislative findings.

(2) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

- 1 SECTION 1. The Legislature finds and declares:
- 2 (a) In November 2016, California voters passed Proposition 64,
- 3 the Control, Regulate and Tax Adult Use of Marijuana Act,

1 authorizing recreational use of marijuana subject to specified limits.
2 Medicinal cannabis use has been legal under California law since
3 1996 with the passage of Proposition 215, the Compassionate Use
4 Act of 1996.

5 (b) Since 1996, a network of producers, distributors, and
6 dispensaries have developed in California to serve the needs of
7 the medical cannabis community. All of these businesses are
8 expected to expand, and new businesses are expected to join them,
9 in order to serve recreational cannabis users.

10 (c) Cannabis remains illegal under federal law. The United
11 States Drug Enforcement Administration classifies cannabis as a
12 Schedule I drug. As a result, the majority of financial institutions
13 that take deposits, including banks, thrifts, and credit unions, do
14 not serve cannabis businesses. This status precludes
15 cannabis-related businesses from depositing income in, or engaging
16 in other banking-related activities with, federally insured and
17 regulated financial institutions and from using a federal
18 clearinghouse to process their payments.

19 (d) Since most financial institutions will not serve cannabis
20 businesses because of the conflict of federal law with state law,
21 these businesses are unable to open and use checking accounts,
22 make or receive electronic payments, or accept credit or debit
23 cards.

24 (e) While income from the sale of cannabis products is
25 considered ill-gotten gains by the federal government, that income
26 is still taxable. The Internal Revenue Service specifically states in
27 Publication 525, Taxable and Nontaxable Income, that “(i)llegal
28 income, such as money from dealing illegal drugs, must be included
29 in your income on Form 1040, line 21, or on Schedule C or
30 Schedule C-EZ (Form 1040) if from your self-employment
31 activity.”

32 (f) The need for banking services for the cannabis industry is
33 at an all-time high, given that the industry is now expected to
34 generate more than \$8,000,000,000 in revenue annually.

35 (g) The lack of banking services has created both regulatory
36 and public safety issues. State and local governments must be able
37 to audit and perform accounting and other accountability functions
38 affecting cannabis-related businesses. This is made significantly
39 more difficult when the majority of transactions are completed
40 with cash.

1 (h) With financial services unavailable to cannabis businesses,
2 these businesses are less able to pay taxes and follow California
3 regulations governing cannabis.

4 (i) Additionally, the lack of access to financial services has
5 created public safety issues for businesses that need to pay high
6 security costs to safeguard their income and their employees, who
7 risk being robbed when managing and transporting cash.

8 (j) California voters have spoken in support of the new cannabis
9 laws. Without a change in law regarding financial services,
10 businesses providing services that are lawful under state law may
11 elect to remain underground and not become regulated, tax-paying
12 California businesses, as the voters intended.

13 (k) In furtherance of the will of the voters, the California
14 government has a responsibility to enact appropriate implementing
15 legislation for Proposition 64. The current conflict with federal
16 law creates a significant problem requiring legislative attention.
17 The state has a duty to provide a mechanism to help these lawful
18 businesses to gain access to banking services that is consistent
19 with the will of California voters.

20 SEC. 2. Section 99 of the Financial Code is amended to read:

21 99. This division, Division 1.1 (commencing with Section
22 1000), Division 1.2 (commencing with Section 2000), Division
23 1.6 (commencing with Section 4800), Division 2 (commencing
24 with Section 5000), *Division 2.5 (commencing with Section 11000)*,
25 Division 5 (commencing with Section 14000), Division 7
26 (commencing with Section 18000), and Division 15 (commencing
27 with Section 31000) shall be known, and may be cited, as the
28 “Financial Institutions Law.”

29 SEC. 3. Section 185 of the Financial Code is amended to read:

30 185. “Licensee” has the following meanings:

31 (a) Any bank authorized by the commissioner pursuant to
32 Section 1042 to transact banking or trust business.

33 (b) Any industrial bank authorized by the commissioner pursuant
34 to Section 1042 to transact industrial banking business.

35 (c) Any trust company authorized by the commissioner pursuant
36 to Section 1042 to transact trust business.

37 (d) Any foreign (other nation) bank that is licensed under Article
38 2 (commencing with Section 1780) of Chapter 20 or under Article
39 3 (commencing with Section 1800) of Chapter 20.

1 (e) Any person licensed by the commissioner as a money
2 transmitter pursuant to Division 1.2 (commencing with Section
3 2000).

4 (f) Any person authorized by the commissioner to conduct the
5 business of a savings association pursuant to Division 2
6 (commencing with Section 5000).

7 (g) Any credit union authorized by the commissioner to conduct
8 business pursuant to Section 14154.

9 (h) Any foreign (other state) credit union licensed by the
10 commissioner to conduct business pursuant to Chapter 11
11 (commencing with Section 16000) of Division 5.

12 (i) Any foreign (other nation) credit union licensed by the
13 commissioner to conduct business pursuant to Chapter 12
14 (commencing with Section 16500) of Division 5.

15 (j) Any industrial loan company authorized by the commissioner
16 to conduct insurance premium finance business pursuant to
17 Division 7 (commencing with Section 18000).

18 (k) Any corporation licensed by the commissioner as a business
19 and industrial development corporation pursuant to Section 31154.

20 (l) *Any cannabis limited charter bank or credit union authorized*
21 *by the commissioner to conduct banking services pursuant to*
22 *Division 2.5 (commencing with Section 11000).*

23 SEC. 4. Section 301 of the Financial Code is amended to read:

24 301. (a) This chapter is applicable to this division, Division
25 1.1 (commencing with Section 1000), Division 1.2 (commencing
26 with Section 2000), Division 1.6 (commencing with Section 4800),
27 *Division 2.5 (commencing with Section 11000)*, Division 5
28 (commencing with Section 14000), Division 7 (commencing with
29 Section 18000), and Division 15 (commencing with Section
30 31000).

31 (b) Except as provided in subdivision (c), this article, and
32 Articles 2 (commencing with Section 320) and 3 (commencing
33 with Section 350) are applicable to the administration of laws by
34 the Division of Corporations.

35 (c) Sections 329, 330, 332, 335, 336, 357, 378, 379, and 381
36 are not applicable to the Division of Corporations.

37 SEC. 5. Section 329 of the Financial Code is amended to read:

38 329. (a) For purposes of this section, the following definitions
39 apply:

40 (1) “Applicable law” means:

- 1 (A) With respect to any bank, Division 1.6 (commencing with
2 Section 4800), and any of the following provisions:
- 3 (i) Article 6 (commencing with Section 405) of Chapter 3.
 - 4 (ii) Article 3 (commencing with Section 1130) of Chapter 5 of
5 Division 1.1.
 - 6 (iii) Chapter 6 (commencing with Section 1200) of Division
7 1.1.
 - 8 (iv) Chapter 10 (commencing with Section 1320) of Division
9 1.1.
 - 10 (v) Chapter 14 (commencing with Section 1460) of Division
11 1.1.
 - 12 (vi) Article 1 (commencing with Section 1530) of Chapter 15
13 of Division 1.1.
 - 14 (vii) Chapter 16 (commencing with Section 1550) of Division
15 1.1.
 - 16 (viii) Chapter 20 (commencing with Section 1750) of Division
17 1.1.
 - 18 (ix) Section 456.
 - 19 (x) Section 457.
 - 20 (xi) Section 459.
 - 21 (xii) Section 460.
 - 22 (xiii) Section 461.
 - 23 (xiv) Section 1331.
 - 24 (xv) Chapter 21 (commencing with Section 1850) of Division
25 1.1.
 - 26 (xvi) Chapter 18 (commencing with Section 1660) of Division
27 1.1.
 - 28 (xvii) Chapter 19 (commencing with Section 1670) of Division
29 1.1.
- 30 (B) With respect to any savings association, any provision of
31 Division 1.6 (commencing with Section 4800) and Division 2
32 (commencing with Section 5000).
- 33 (C) With respect to any insurance premium finance agency, any
34 provision of Division 7 (commencing with Section 18000).
- 35 (D) With respect to any business and industrial development
36 corporation, any provision of Division 15 (commencing with
37 Section 31000).
- 38 (E) With respect to any credit union, any of the following
39 provisions:
- 40 (i) Section 14252.

- 1 (ii) Section 14253.
2 (iii) Section 14255.
3 (iv) Article 4 (commencing with Section 14350) of Chapter 3
4 of Division 5.
5 (v) Section 14401.
6 (vi) Section 14404.
7 (vii) Section 14408, only as that section applies to gifts to
8 directors, volunteers, and employees, and the related family or
9 business interests of the directors, volunteers, and employees.
10 (viii) Section 14409.
11 (ix) Section 14410.
12 (x) Article 5 (commencing with Section 14600) of Chapter 4
13 of Division 5.
14 (xi) Article 6 (commencing with Section 14650) of Chapter 4
15 of Division 5, excluding subdivision (a) of Section 14651.
16 (xii) Section 14803.
17 (xiii) Section 14851.
18 (xiv) Section 14858.
19 (xv) Section 14860.
20 (xvi) Section 14861.
21 (xvii) Section 14863.
22 (F) With respect to any money transmitter, any provision of
23 Division 1.2 (commencing with Section 2000).
24 (G) *With respect to any cannabis limited charter bank or credit*
25 *union, any provision of Division 2.5 (commencing with Section*
26 *11000).*
27 (2) “Licensee” means any bank, savings association, credit
28 union, trust company, *cannabis limited charter bank or credit*
29 *union*, money transmitter, insurance premium finance agency, or
30 business and industrial development corporation that is authorized
31 by the commissioner to conduct business in this state.
32 (b) Notwithstanding any other provision of this code that applies
33 to a licensee or a subsidiary of a licensee, after notice and an
34 opportunity to be heard, the commissioner may, by order that shall
35 include findings of fact which incorporates a determination made
36 in accordance with subdivision (e), levy civil penalties against any
37 licensee or any subsidiary of a licensee who has violated any
38 provision of applicable law, any order issued by the commissioner,
39 any written agreement between the commissioner and the licensee
40 or subsidiary of the licensee, or any condition of any approval

1 issued by the commissioner. The commissioner shall have the sole
2 authority to bring any action with respect to a violation of
3 applicable law subject to a penalty imposed under this section.

4 Except as provided in paragraphs (1) and (2), any penalty
5 imposed by the commissioner may not exceed one thousand dollars
6 (\$1,000) ~~a~~ *per* day, provided that the aggregate penalty of all
7 offenses in any one action against any licensee or subsidiary of a
8 licensee shall not exceed fifty thousand dollars (\$50,000).

9 (1) If the commissioner determines that any licensee or
10 subsidiary of the licensee has recklessly violated any applicable
11 law, any order issued by the commissioner, any provision of any
12 written agreement between the commissioner and the licensee or
13 subsidiary, or any condition of any approval issued by the
14 commissioner, the commissioner may impose a penalty not to
15 exceed five thousand dollars (\$5,000) per day, provided that the
16 aggregate penalty of all offenses in an action against any licensee
17 or subsidiary of a licensee shall not exceed seventy-five thousand
18 dollars (\$75,000).

19 (2) If the commissioner determines that any licensee or
20 subsidiary of the licensee has knowingly violated any applicable
21 law, any order issued by the commissioner, any provision of any
22 written agreement between the commissioner and the licensee or
23 subsidiary, or any condition of any approval issued by the
24 commissioner, the commissioner may impose a penalty not to
25 exceed ten thousand dollars (\$10,000) per day, provided that the
26 aggregate penalty of all offenses in an action against any licensee
27 or subsidiary of a licensee shall not exceed 1 percent of the total
28 assets of the licensee or subsidiary of a licensee subject to the
29 penalty.

30 (c) Nothing in this section shall be construed to impair or impede
31 the commissioner from pursuing any other administrative action
32 allowed by law.

33 (d) Nothing in this section shall be construed to impair or impede
34 the commissioner from bringing an action in court to enforce any
35 law or order he or she has issued, including orders issued under
36 this section. Nothing in this section shall be construed to impair
37 or impede the commissioner from seeking any other damages or
38 injunction allowed by law.

1 (e) In determining the amount and the appropriateness of
2 initiating a civil money penalty under subdivision (b), the
3 commissioner shall consider all of the following:

4 (1) Evidence that the violation or practice or breach of duty was
5 intentional or was committed with a disregard of the law or with
6 a disregard of the consequences to the institution.

7 (2) The duration and frequency of the violations, practices, or
8 breaches of duties.

9 (3) The continuation of the violations, practices, or breaches of
10 duty after the licensee or subsidiary of the licensee was notified,
11 or, alternatively, its immediate cessation and correction.

12 (4) The failure to cooperate with the commissioner in effecting
13 early resolution of the problem.

14 (5) Evidence of concealment of the violation, practice, or breach
15 of duty or, alternatively, voluntary disclosure of the violation,
16 practice, or breach of duty.

17 (6) Any threat of loss, actual loss, or other harm to the
18 institution, including harm to the public confidence in the
19 institution, and the degree of that harm.

20 (7) Evidence that a licensee or subsidiary of a licensee received
21 financial gain or other benefit as a result of the violation, practice,
22 or breach of duty.

23 (8) Evidence of any restitution paid by a licensee or subsidiary
24 of a licensee of losses resulting from the violation, practice, or
25 breach of duty.

26 (9) History of prior violations, practices, or breaches of duty,
27 particularly where they are similar to the actions under
28 consideration.

29 (10) Previous criticism of the institution for similar actions.

30 (11) Presence or absence of a compliance program and its
31 effectiveness.

32 (12) Tendency to engage in violations of law, unsafe or unsound
33 financial institutions practices, or breaches of duties.

34 (13) The existence of agreements, commitments, orders, or
35 conditions imposed in writing intended to prevent the violation,
36 practice, or breach of duty.

37 (14) Whether the violation, practice, or breach of duty causes
38 quantifiable, economic benefit or loss to the licensee or the
39 subsidiary of the licensee. In those cases, removal of the benefit
40 or recompense of the loss usually will be insufficient, by itself, to

1 promote compliance with the applicable law, order, or written
2 agreement. The penalty amount should reflect a remedial purpose
3 and should provide a deterrent to future misconduct.

4 (15) Other factors as the commissioner may, in his or her
5 opinion, consider relevant to assessing the penalty or establishing
6 the amount of the penalty.

7 (f) The amounts collected under this section shall be deposited
8 in the appropriate fund of the department. For purposes of this
9 subdivision, the term “appropriate fund” means the fund to which
10 the annual assessments of fined licensees, or the parent licensee
11 of the fined subsidiary, are credited.

12 SEC. 6. Section 1003 of the Financial Code is amended to read:

13 1003. Except where explicitly stated or the context provides
14 otherwise, this division is applicable to the following:

15 (a) All corporations engaging in commercial banking, industrial
16 banking, or the trust business.

17 (b) All national banking associations authorized to transact
18 business in this state to the extent that the provisions of this division
19 are not inconsistent with and do not infringe paramount federal
20 laws governing national banking associations.

21 (c) *All cannabis limited charter banks or credit unions that elect*
22 *to form under this division to the extent that the provisions of this*
23 *division are not inconsistent with Division 2.5 (commencing with*
24 *Section 11000).*

25 ~~(e)~~

26 (d) All other corporations that subject themselves to the special
27 provisions and sections of this division.

28 ~~(f)~~

29 (e) All other persons, associations, copartnerships, or
30 corporations who, by violating any of its provisions, become
31 subject to the penalties provided for in this division.

32 SEC. 7. Division 2.5 (commencing with Section 11000) is
33 added to the Financial Code, to read:

1 DIVISION 2.5. CANNABIS LIMITED CHARTER BANKING
2 AND CREDIT UNION LAW

3
4 CHAPTER 1. GENERAL PROVISIONS

5
6 Article 1. Short Title and Construction

7
8 11000. This division is known, and may be cited, as the
9 Cannabis Limited Charter Banking and Credit Union Law.

10
11 Article 2. Definitions

12
13 11005. For purposes of this chapter:

14 (a) “Applicant” means a person or entity that submits an
15 application to be licensed by the state to provide banking services
16 to a cannabis business pursuant to this division.

17 (b) “Banking services” means the provision of depository
18 services with respect to cash or other funds and the issuance and
19 acceptance of special purpose checks, including the acceptance
20 and maintenance of deposit proceeds, consistent with the
21 requirements and limitations provided by this chapter.

22 (c) “Board” means the Cannabis Limited Charter Bank and
23 Credit Union Advisory Board.

24 (d) “Cannabis business” means a person licensed to engage in
25 commercial cannabis activity under Division 10 (commencing
26 with Section 26000) of the Business and Professions Code. The
27 term “cannabis business” also includes an ancillary business or
28 profession that serves a person licensed to engage in commercial
29 cannabis activity under Division 10 (commencing with Section
30 26000) of the Business and Professions Code.

31 (e) “Cannabis limited charter bank or credit union” means a
32 person that receives a license following the approval of an
33 application pursuant to Chapter 3 (commencing with Section
34 11040).

35 (f) “Commissioner” means the Commissioner of Business
36 Oversight.

37 (g) “Department” means the Department of Business Oversight.

38 (h) “Licensee” means a cannabis limited charter bank or credit
39 union.

CHAPTER 2. ADMINISTRATION

Article 1. The Cannabis Limited Charter Bank and Credit Union
Advisory Board

11010. (a) There is hereby created the Cannabis Limited Charter Bank and Credit Union Advisory Board. The board shall be comprised of the Treasurer, the Controller, and the Chief of the Bureau of Cannabis Control. The Director of Finance shall serve as an ex officio, nonvoting member. Board members shall not be compensated for their services.

(b) The board shall be generally responsible for ensuring that the Cannabis Limited Charter Banking and Credit Union Law provides a safe and efficient way to pay state and local taxes and fees, to pay rent associated with the account holder’s cannabis business, to issue special purpose checks, and legally invest in California’s economy, while reducing burdens placed on local government that result from collecting and managing large sums of cash.

11011. In light of the particular challenges arising from cannabis business activities, the department shall submit reports of enforcement activities to the board for review annually or as the board may require. The board shall meet once a year, or more often as needed, at the board’s discretion, to review enforcement activity reports from the department. These meetings shall be noticed and open to public comment. The board shall evaluate the reports and the comments of the public and draft recommended actions to be taken legislatively or administratively, which shall be submitted to the Legislature and Governor. Recommendations provided to the Legislature shall be submitted in compliance with Section 9795 of the Government Code.

11012. The board shall provide guidance and education to registered broker-dealers and licensed investment advisors on how to accommodate account holders of cannabis limited charter banks and credit unions in purchasing, holding, and selling any of the investments described in paragraph (4) of subdivision (b) of Section 11050.

Article 2. Licensing

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11020. (a) A person may act as a cannabis limited charter bank or credit union after obtaining a license pursuant to this division.

(b) A cannabis limited charter bank or credit union license is not transferable or assignable.

11021. A licensee shall comply with all requirements of the Financial Institutions Law (Division 1 (commencing with Section 99)) and either the Banking Law (Division 1.1 (commencing with Section 1000)) or the California Credit Union Law (Division 5 (commencing with Section 14000)), as applicable, except to the extent that any requirement of those laws are inconsistent with a provision of this division, in which case the provisions of this division shall prevail.

11025. A cannabis limited charter bank or credit union shall adopt policies and practices that allow it to achieve the principles and goals outlined in the federal Bank Secrecy Act (commencing with 31 U.S.C. Sec. 5311) and cooperate with the federal Financial Crimes Enforcement Network.

11026. The department shall adopt emergency regulations pursuant to Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code to implement this division. The adoption of these regulations is deemed to be an emergency and necessary for the immediate preservation of the public peace, health, or safety.

11027. (a) Except as provided in subdivision (c), the department shall not issue a license under this chapter before July 1, 2020.

(b) On or before June 30, 2020, the department shall report to the Senate Committee on Banking and Financial Institutions and the Senate Committee on Governance and Finance regarding the status of the regulations and the implementation of this chapter.

(c) Notwithstanding (a), the department may issue a license under this chapter before July 1, 2020, if the following conditions are met:

(1) The regulations required by Section 11026 have been adopted.

(2) The report required by subdivision (b) has been received by the Senate Committee on Banking and Financial Institutions and the Senate Committee on Governance and Finance.

1 (3) The Senate Committee on Banking and Financial Institutions
2 and the Senate Committee on Governance and Finance have met
3 in an open and public meeting to consider the report required by
4 subdivision (b).

5 (4) The Commissioner of Business Oversight makes a written
6 finding that the requirements of paragraphs (1) to (3), inclusive,
7 have been met and the department is prepared to issue licenses,
8 consistent with the regulations required by Section 11026, and
9 posts the written finding on the department’s Internet Web site.

10
11 CHAPTER 3. APPLICATION
12

13 11040. An applicant that desires to be licensed to act as a
14 cannabis limited charter bank or credit union pursuant to this
15 division shall submit a completed application to the department
16 in a form prescribed by the commissioner that satisfies the
17 requirements of this chapter. An applicant that desires to be
18 licensed to act as a limited charter bank or credit union pursuant
19 to this division shall elect to form under either the Banking Law
20 (Division 1.1 (commencing with Section 1000)) or the California
21 Credit Union Law (Division 5 (commencing with Section 14000)),
22 and shall comply with all requirements imposed by those laws, as
23 applicable, except to the extent any requirement of those laws is
24 inconsistent with the provisions of this chapter.

25 11042. The department may charge an applicant a reasonable
26 fee for a cannabis limited charter bank or credit union license, not
27 to exceed the costs of regulation.

28
29 CHAPTER 4. AUTHORIZATIONS
30

31 11050. (a) A cannabis limited charter bank or credit union
32 may issue to an account holder special purpose checks that shall
33 be valid for only the purposes specified in subdivision (b). The
34 following text shall be printed on each check in at least 12-point
35 type, with the name of the issuing bank included: “This check is
36 issued by [insert name of bank] and may only be deposited or
37 cashed at this cannabis limited charter bank or credit union or
38 another cannabis limited charter bank or credit union that agrees
39 to accept the check.”

1 (b) Subject to the limitations of subdivision (d), a special
2 purpose check issued by a cannabis limited charter bank or credit
3 union may only be used for the following purposes:

4 (1) To pay fees or taxes to the state or a local jurisdiction.

5 (2) To pay rent on property that is leased by, or on behalf of,
6 the account holder's cannabis business.

7 (3) To pay a vendor that is physically located in California for
8 expenses related to goods and services associated with the account
9 holder's cannabis business.

10 (4) To purchase the following:

11 (A) Bonds, interest-bearing notes, or interest-bearing warrants
12 of this state for which the faith and credit of this state are pledged
13 for the payment of principal and interest.

14 (B) Bonds or warrants, including, but not limited to, revenue
15 warrants, of any county, city, metropolitan water district, California
16 water district, California water storage district, irrigation district
17 in the state, municipal utility district, or school district of this state.

18 (c) Subject to the limitations of subdivision (d), state and local
19 government offices are authorized to accept a special purpose
20 check issued by a cannabis limited charter bank or credit union.

21 (d) An individual or entity, private or public, is not required to
22 accept a special purpose check issued by a cannabis limited charter
23 bank or credit union pursuant to this section.

24 (e) A cannabis limited charter bank or credit union is authorized
25 to cash a special purpose check presented to it by a person or entity
26 that is not an account holder, if that limited charter bank or credit
27 union previously issued that special purpose check to an account
28 holder, and the check was used for one of the authorized purposes
29 specified in subdivision (b).

30 11052. A cannabis limited charter bank or credit union shall
31 obtain and maintain private insurance in an amount acceptable to
32 the commissioner for the cannabis depository institution and its
33 assets at all times while it is engaged in banking services. Private
34 insurance shall not be unsatisfactory to the commissioner. In
35 seeking and retaining private insurance, a cannabis limited charter
36 bank or credit union may do all things and assume and discharge
37 all obligations required of it that are not in conflict with state law.

38 11054. A cannabis limited charter bank or credit union may
39 enter into an agreement with one or more other limited charter
40 licensees in order to form a banking network. That agreement shall

1 be subject to the approval of the commissioner. The network shall
2 be for the purpose of assisting each other in providing services to
3 cannabis businesses and each other. A network of this type shall
4 not include any institution that is not a licensee under this division.

5 11056. A cannabis limited charter bank or credit union may
6 provide accounts to people and entities other than cannabis
7 businesses, pursuant to rules that may be adopted by the
8 commissioner.

9 11058. A cannabis limited charter bank or credit union may
10 charge fees for the banking services that it provides. Each cannabis
11 limited charter bank and credit union shall provide to the
12 commissioner a fee schedule, listing the types and sizes of fees it
13 charges for the services it provides. The department shall compile
14 the information provided to it pursuant to this section and shall
15 post that information on its Internet Web site in a format intended
16 to provide transparency. The commissioner may, if requested by
17 any person or whenever the commissioner deems appropriate,
18 review any fee charged by a cannabis limited charter bank or credit
19 union pursuant to this section.

20
21 CHAPTER 5. PROHIBITED PRACTICES

22
23 11100. (a) A cannabis limited charter bank or credit union
24 shall not engage in banking activity with any other financial
25 institution that lacks a limited purpose charter issued under this
26 division.

27 (b) A cannabis limited charter bank or credit union shall not
28 engage in any activity under Division 1.1 (commencing with
29 Section 1000) or Division 5 (commencing with Section 14000)
30 other than activity required to accept deposits and perform actions
31 described in Chapter 4.

32 SEC. 8. Section 14001.1 of the Financial Code is amended to
33 read:

34 14001.1. This division is applicable to any person, other than
35 a federal credit union engaging in the business of a credit union
36 in this state. For purposes of this division, “person” shall have the
37 meaning set forth in Section 5065 of the Corporations Code. *This*
38 *division is also applicable to any cannabis limited charter bank*
39 *or credit union that elects to form under this division except to the*

1 *extent that the provisions of this division are inconsistent with*
2 *Division 2.5 (commencing with Section 11000).*

3 SEC. 9. No reimbursement is required by this act pursuant to
4 Section 6 of Article XIII B of the California Constitution because
5 the only costs that may be incurred by a local agency or school
6 district will be incurred because this act creates a new crime or
7 infraction, eliminates a crime or infraction, or changes the penalty
8 for a crime or infraction, within the meaning of Section 17556 of
9 the Government Code, or changes the definition of a crime within
10 the meaning of Section 6 of Article XIII B of the California
11 Constitution.

O



Senate Bill 51
Banking for the Cannabis Industry
As Introduced on December 4, 2018

Attachment 2

SUMMARY

SB 51 creates a limited-purpose, state-chartered bank license that would be administered and regulated by the Department of Business Oversight. Privately-funded banks that receive this charter would be able to provide limited banking services to licensed cannabis and cannabis-related businesses. Under SB 51, banks could issue checks to accountholders to be used only for the following purposes:

- Pay state and local taxes and fees,
- Pay vendors from California for goods and services provided to the cannabis business,
- Pay rent, and
- Purchase state and local bonds and other debt instruments.

ISSUE

In 1996, the passage of Proposition 215 legalized the use and consumption of medical marijuana in California, and the passage of Proposition 64 legalized the recreational use of cannabis by adults as of January 2018. However, due to cannabis' federal classification as a Schedule I drug, cannabis-related businesses are not able to deposit income with federally-insured financial institutions. The cannabis industry is expected to generate between \$8-20 billion annually. This is a massive industry that we can only expect will continue to grow; yet cultivation, distribution, and retail businesses alike have been forced to operate on a cash-only basis. This is not only impractical from an accounting perspective, but also presents a significant public safety issue.

During the first quarter of 2018 alone, the state collected almost \$34 million in marijuana sales taxes, and the Department of Finance estimates that the state will collect \$600 million in cannabis taxes in the upcoming fiscal year. However, unlike most businesses, those in the cannabis industry arrive to government offices with duffel bags of cash to fulfill their tax obligations. Standard oversight and accountability measures, like audits, become very difficult when most transactions are completed in cash. Additionally, these businesses face security risks because of the volume of cash in their possession. SB 51 is an integral step toward integrating cannabis-related businesses into the California economy in a safe and transparent manner.

SB 51 (HERTZBERG)

SB 51 allows cannabis-related businesses to open accounts and deposit income in banks that hold a limited purpose state charter created under this bill. The bill also authorizes these banks to obtain private insurance, in lieu of Federal Deposit Insurance Corporation (FDIC) or National Credit Union Administration (NCUA) insurance. SB 51 also creates an advisory board composed of the State Treasurer, Controller and the Chief of the Bureau of Cannabis Control as members, and the Director of the Department of Finance as an ex officio, nonvoting member. The Department of Business Oversight would be required to adopt emergency regulations and could not issue bank or credit union licenses before July 1, 2020.

**CALIFORNIA BOARD OF ACCOUNTANCY
LEGISLATIVE ANALYSIS
SB 53**

Subject: Open Meetings	Author: Wilk
Version: 12/10/2018	Sponsor: Author
Status: Senate Rules – Pending Referral	

Summary

Senate Bill (SB) 53 (**Attachment 1**) amends the Bagley-Keene Open Meeting Act (Act) so that two-member advisory committees are considered to be a “state body,” therefore requiring them to comply with the various provisions of the Act.

Bills signed by the Governor typically take effect January 1 of the following calendar year. SB 53, however, is written to take effect immediately upon its approval. Therefore, it requires a 2/3 vote of the Legislature to pass it, rather than a simple majority.

Background

Bagley-Keene Open Meeting Act

Whenever a state body meets, the Act requires those bodies to take certain actions prior to, during, and after a meeting, including:

- Issue a public notice at least 10 days in advance;
- Prepare formal agendas;
- Conduct meetings in public;
- Accept public testimony;
- Record the meeting; and
- Publish meeting minutes.

Under current law, the California Board of Accountancy (CBA) and its committees, such as the Peer Review Oversight Committee, Qualifications Committee, Enforcement Advisory Committee, and Mobility Stakeholder Group, are all state bodies and subject to the Act. Further, advisory committees established by the CBA, that consist of three or more members, are considered a state body and subject to the Act.

Prior Legislation

SB 53 is a reintroduction of AB 85 (introduced in 2015) and very similar to AB 2058 (introduced in 2014) – both bills passed the Legislature unanimously, but were vetoed by Governor Brown. The CBA adopted an Oppose position on both prior bills. In his veto messages, Governor Brown indicated that current law was sufficient to promote transparency and openness, and stated that advisory committees do not have the authority to act on their own and must present any findings and recommendations to a larger body in a public setting for formal action.

In the CBA’s letter to Governor Brown requesting a veto of AB 85 (**Attachment 2**) the CBA discussed the following impacts:

- Prohibit asking fewer than three members to review a document, draft a letter, provide expert analysis, or work on legal language without giving public notice.

SB 53

Page 2 of 4

- Prohibit two board members from meeting legislators, in a single meeting, to discuss important consumer protection issues related to practice of public accountancy, as it would be impractical to publicly notice legislative visits.
- Increase costs as staff would need to travel to attend advisory committee meetings to record minutes. Further, the CBA would need to contract for meeting space that could accommodate the public.

Analysis

The CBA acts in an open and transparent manner, consistent with the Act. SB 53 would have substantive impacts to the CBA's operations.

CBA's Use of Advisory Bodies

When the CBA or a CBA committee forms an advisory body, they are generally used to research or investigate specific issues and advise a full board or committee at a public meeting. These advisory bodies cannot take official actions independently.

For example, the CBA's Peer Review Oversight Committee (PROC) is a state body and PROC meetings are subject to the requirements of the Act. However, PROC members currently engage as a two-member advisory committee to conduct oversight of the peer review program through site visits and meetings with representatives of the California Society of CPAs. Under SB 53, such a site visit would be limited to one PROC member, otherwise it would be subject to the requirements of the Act.

Effect on CBA Outreach and Communication Efforts

In addition, CBA outreach and communication efforts that involve more than one CBA member could be impacted by SB 53. For example, any discussions with the Governor's Administration or members of the Legislature, or attendance at an outreach event, that involve more than one CBA member may be subject to the Act.

Discussions with Author's Staff

Following receipt of the fact sheet (**Attachment 3**), CBA staff had a productive discussion with the author's staff. The author's staff stated that meetings of a local government two-member body are required to be noticed and open to the public and that it is appropriate to treat two-member state bodies in a consistent manner. Further, the author believes that some state bodies, through the use of two-member committees, make decisions in closed meetings that should be conducted in the open.

CBA staff discussed the possible costs and impacts to the CBA. The author's staff indicated their intent was not to impact outreach and communication efforts and stated that the concerns expressed by CBA staff would be reviewed and that subsequent discussion with CBA staff would occur.

In addition, the author's office was informed that the CBA may consider and possibly take a position on SB 53 during the January 17, 2019 meeting. Further, the author's staff was told the CBA's meeting was open to the public and they were welcome to attend and address the CBA, and that a copy of this analysis would be provided to them.

Fiscal Estimate

An analysis of the fiscal impact to the CBA has not been completed. However, the CBA estimated annual cost (e.g. travel and renting meeting space) to comply with AB 85 was \$119,000. According to the Senate Appropriations Committee analysis of AB 85, the following boards within the Department of Consumer Affairs reported these compliance costs:

- Board of Barbering and Cosmetology: \$14,000
- Board of Optometry: \$6,000
- Board of Chiropractic Examiners: \$99,000
- Acupuncture Board: \$65,000
- Respiratory Care Board: \$70,000
- Physician Assistant Board: \$14,000
- Dental Board: \$27,500
- Dental Hygiene Committee: \$18,000
- Naturopathic Medicine Committee: \$11,500
- Board of Registered Nursing: \$28,000
- Board of Pharmacy: \$9,500
- Board of Psychology: \$31,000
- State Athletic Commission: \$125,000
- Osteopathic Medical Board: projected costs of \$82,000, based on historical use of advisory bodies, if advisory bodies are formed in the future.

Recommendation

Oppose: In light of the impact to the CBA's operations, and its prior positions on AB 85 and AB 2058, staff recommend the CBA adopt an Oppose position.

Support/Opposition

Support: None at this time.

Opposition: None at this time.

Effective/Operative Date

This is an urgency statute and becomes effective immediately upon signing by the Governor.

Related Bills

- AB 85 (Wilk), 2015-16 Legislative Session. Would have the same impact as SB 53. (Vetoed)
- AB 2058 (Wilk), 2013-14 Legislative Session, Amended the definition of "state body" to clarify that standing committees, even if composed of less than three members, are a "state body" for the purposes of the Act. (Vetoed)
- AB 2720 (Ting), Chapter 502, Statutes of 2014. Amended the Act to require a state body to publicly report any action taken at an open meeting, and the vote or abstention on that action, of each member present for the action.
- AB 245 (Grove), 2013-2014 Legislative Session. Would have repealed the exemption from the Act enacted in 2012 for the Western Climate Initiative (WCI)

SB 53

Page 4 of 4

and instead would have subjected the WCI and its appointees to the Act when performing their duties. (Was not approved by the Legislature)

- AB 527 (Gaines), 2013-2014 Legislative Session. Would have repealed the exemption from the Bagley-Keene Open Meeting Act enacted in 2012 for the Western Climate Initiative (WCI) and provided that a contract between the state and WCI shall be subject to audit by the State Auditor. (Vetoed)
- AB 192 (Canciamilla), Chapter 243, Statutes of 2001. Made various changes to the Bagley-Keene Open Meeting Act, which governs meetings held by state bodies, to make it consistent with provisions of the Ralph M. Brown Act, which governs meetings of legislative bodies of local agencies.
- SB 95 (Ayala), Chapter 949, Statutes of 1997. Made numerous changes to the BagleyKeene Act by expanding the notice, disclosure and reporting requirements for open and closed meetings of state bodies.

Attachments

1. SB 53
2. AB 85 Veto Letter to Governor Brown Dated September 25, 2015
3. SB 53 Fact Sheet

SENATE BILL**No. 53**

Introduced by Senator Wilk
(Coauthor: Assembly Member Lackey)

December 10, 2018

An act to amend Section 11121 of the Government Code, relating to state government, and declaring the urgency thereof, to take effect immediately.

LEGISLATIVE COUNSEL'S DIGEST

SB 53, as introduced, Wilk. Open meetings.

The Bagley-Keene Open Meeting Act requires that all meetings of a state body, as defined, be open and public and that all persons be permitted to attend and participate in a meeting of a state body, subject to certain conditions and exceptions.

This bill would specify that the definition of "state body" includes an advisory board, advisory commission, advisory committee, advisory subcommittee, or similar multimember advisory body of a state body that consists of 3 or more individuals, as prescribed, except a board, commission, committee, or similar multimember body on which a member of a body serves in his or her official capacity as a representative of that state body and that is supported, in whole or in part, by funds provided by the state body, whether the multimember body is organized and operated by the state body or by a private corporation.

This bill would declare that it is to take effect immediately as an urgency statute.

Vote: $\frac{2}{3}$. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 11121 of the Government Code is
2 amended to read:

3 11121. As used in this article, “state body” means each of the
4 following:

5 (a) Every state board, or commission, or similar multimember
6 body of the state that is created by statute or required by law to
7 conduct official meetings and every commission created by
8 executive order.

9 (b) A board, commission, committee, or similar multimember
10 body that exercises any authority of a state body delegated to it by
11 that state body.

12 (c) An advisory board, advisory commission, advisory
13 committee, advisory subcommittee, or similar multimember
14 advisory body of a state body, if created by formal action of the
15 state body or of any member of the state body, and if the advisory
16 body so created consists of three or more ~~persons~~; *persons, except*
17 *as provided in subdivision (d).*

18 (d) A board, commission, committee, or similar multimember
19 body on which a member of a body that is a state body pursuant
20 to this section serves in his or her official capacity as a
21 representative of that state body and that is supported, in whole or
22 in part, by funds provided by the state body, whether the
23 multimember body is organized and operated by the state body or
24 by a private corporation.

25 (e) Notwithstanding subdivision (a) of Section 11121.1, the
26 State Bar of California, as described in Section 6001 of the
27 Business and Professions Code. This subdivision shall become
28 operative on April 1, 2016.

29 SEC. 2. This act is an urgency statute necessary for the
30 immediate preservation of the public peace, health, or safety within
31 the meaning of Article IV of the California Constitution and shall
32 go into immediate effect. The facts constituting the necessity are:

33 In order to avoid unnecessary litigation and ensure the people’s
34 right to access the meetings of public bodies pursuant to Section
35 3 of Article 1 of the California Constitution, it is necessary that
36 this act take effect immediately.

O

**DEPARTMENT OF CONSUMER AFFAIRS**

CALIFORNIA BOARD OF ACCOUNTANCY
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September 25, 2015

Attachment 2

Governor Edmund G. Brown, Jr.
State Capitol
Sacramento, CA 95814

Bill: AB 85
Position: VETO

Dear Governor Brown,

The California Board of Accountancy (CBA) has taken an oppose position on Assembly Bill (AB) 85, which would require two-member advisory committees or panels of a “state body” (as defined in the Bagley-Keene Open Meeting Act) to hold open, public meetings if at least one member of the advisory committee is a member of the larger state body and the advisory committee is supported, in whole or in part, by state funds.

This bill would prevent the CBA, and all of its various committees, from asking fewer than three members to review a document, draft a letter, provide expert analysis, or work on legal language without giving public notice. Under current law, the advisory activities of these two-member bodies are already vetted and voted upon in a publically noticed meeting of the whole committee or board.

AB 85 would also prohibit two board members from visiting Legislators to discuss important consumer protection issues related to the practice of public accountancy, as it would be impractical, if not impossible, to publically notice legislative visits scheduled on short notice.

In addition, making advisory activities of two members open to the public will greatly increase costs as a staff member would need to travel to attend the meeting for the purpose of recording minutes. Agencies would also need to contract for meeting space that would be able to accommodate the public, thus incurring further costs.

The CBA truly appreciates the goal of this bill to increase public participation and government transparency. The CBA has unilaterally taken several steps to increase its transparency. However, the CBA believes that the advisory activities of two members are already given complete transparency and the chance for public input when they are fully vetted and voted upon in forums that are already open to the public.

For these reasons, the CBA strongly urges you to veto AB 85.

September 23, 2015

Page 2

Sincerely,

A handwritten signature in black ink, appearing to read "Jose A. Campos". The signature is written in a cursive style with a large initial "J" and "C".

Jose A. Campos, CPA

President

c: Members, California Board of Accountancy
Patti Bowers, Executive Officer

SENATOR SCOTT WILK

SENATE DISTRICT 21

Attachment 3



SB 53: OPEN MEETINGS

ISSUE

Current law requires all standing committees of a local government entity or of the Legislature to hold meetings that are open to the public whether or not the standing committee takes action. However, existing law is slightly ambiguous for state bodies, resulting in some state agencies using this as a loophole. Multiple state agencies have used this misinterpretation to mean that standing committees can hold closed door meetings as long as they contain two rather than three members and do not vote to take action on items. These agencies purposefully limit their standing committees to two members for the explicit purpose of avoiding open meeting requirements.

BACKGROUND

The Government Code contains two parallel open meeting statutes: the Ralph M. Brown Act for legislative bodies of local governments and the Bagley-Keene Open Meeting Act for state board and commissions. Prior to 1993, the Brown Act contained language very similar to the current language in the Bagley-Keene Act regarding standing committees. However, in the 1990s, after a local government entity attempted to claim a loophole existed for two-member standing committees, the legislature promptly removed any ambiguity on the matter from the Brown Act [SB 1140 (Calderon) (Chapter 1138, Statutes of 1993)]. A conforming change was not made, however, to the Bagley-Keene Act, as no change was thought necessary at the time.

Both AB 2058 (Wilk, 2014) and AB 85 (Wilk, 2015) would have fixed this ambiguity and aligned the definitions in the Bagley-Keene Act with those in the Brown Act. Both were passed unanimously by the legislature with Governor Brown vetoing the measures, claiming they expanded on current law.

This leaves ambiguity in the Bagley-Keene Act, allowing state bodies to continue to deliberate and direct staff behind closed doors. These state agencies are allowing standing committees to interpret the language of the Bagley-Keene Act in a manner that is contrary to the intent of the Legislature and the public; that the government at all levels must conduct its business visible and transparent manner.

BILL SUMMARY

SB 53 would:

- Affirm Legislative intent that, declaratory of existing law, a two-member committee is a “state body”.
- Clarify the language of the statute explaining that when two-member advisory committees are acting in an official capacity of a state body and are funded in whole or part by the state body, they are also subject to the full provisions of the Bagley-Keene Open Meeting Act

FOR MORE INFORMATION

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CBA Item XI.A.
 January 17, 2019

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

DRAFT

MINUTES OF THE
November 15, 2018
CBA MEETING

DoubleTree by Hilton – San Diego Downtown Hotel
1646 Front Street
San Diego, CA 92101
Telephone: (619) 239-6800

Roll Call and Call to Order.

California Board of Accountancy (CBA) President Michael M. Savoy, CPA, called the meeting to order at 9:15 a.m. on Thursday, November 15, 2018 until 11:45 a.m. at the DoubleTree by Hilton San Diego Downtown Hotel. The CBA reconvened into open session from 1:30 p.m. until 1:45 p.m. The CBA convened into closed session from 1:47 p.m. until 3:16 p.m. President Savoy adjourned the meeting at 3:18 p.m.

CBA Members

Michal M. Savoy, CPA, President
 George Famalett, CPA, Vice-President
 Mark Silverman, Esq. Secretary/Treasurer
 Alicia Berhow
 Jose A. Campos, CPA
 Nancy J. Corrigan, CPA
 Mary M. Geong, CPA
 Karriann Farrell Hinds, Esq.
 Dan Jacobson, Esq.
 Xochitl León
 Luz Molina Lopez
 Carola Nicholson, CPA
 Deidre Robinson
 Katrina L. Salazar, CPA

November 15, 2018

9:15 a.m. to 3:18 p.m.
 9:15 a.m. to 3:18 p.m.
 9:15 a.m. to 3:18 p.m.
 9:15 a.m. to 3:18 p.m.
 1:30 p.m. to 3:18 p.m.
 9:15 a.m. to 3:18 p.m.
 9:15 a.m. to 3:18 p.m.
 9:15 a.m. to 3:18 p.m.
 Absent
 9:15 a.m. to 3:18 p.m.
 9:15 a.m. to 3:18 p.m.
 9:15 a.m. to 3:18 p.m.
 Absent
 9:15 a.m. to 3:18 p.m.

Staff and Legal Counsel

Patti Bowers, Executive Officer

Deanne Pearce, Assistant Executive Officer

Karen Nelson, Assistant Deputy Director, Office of Board and Bureau Services

Rich Andres, Information Technology Staff

Aaron Bone, Information and Planning Officer

Ileana Butu, Legal Counsel, DCA

Paul Fisher, CPA, Enforcement Manager

Dominic Franzella, Chief, Enforcement Division

Rebecca Reed, Board Relations Analyst

Carl Sonne, Deputy Attorney General, Department of Justice

Committee Chairs and Members

Joseph Rosenbaum, CPA, Chair, Enforcement Advisory Committee (EAC)

Other Participants

Dean Andal, The Accounting Coalition

Brian Attard, Center for Public Interest Law

Theresa M. Brehl, Administrative Law Judge, Office of Administrative Hearings

Daniel J. Dustin, CPA, Vice President, State Board Relations, National Association of State Boards of Accountancy (NASBA)

Pilar Oñate-Quintana, The Oñate Group

Danielle R. Sires, Associate Consultant, Assembly Committee on Business and Professions

J. Andrew Wright, Esq.

I. Report of the President.

A. Introduction of New California Board of Accountancy Member Nancy J. Corrigan, CPA.

President Savoy introduced new CBA member Nancy J. Corrigan, CPA.

B. Introduction of Danielle R. Sires, Associate Consultant for the Assembly Business and Professions Committee – Discussion Regarding CBA’s Mobility Report, Sunset Review and Implementation of California Board of Accountancy’s Consumer Protection Mandate.

Ms. Sires thanked the CBA, on behalf of California Assemblyman Evan Low, Chair of the Business and Professions Committee (BPC), for their work on the implementation of the mobility program. She stated that moving forward, the Legislature, Senate, and BPC as a whole view the report as a template for other Boards and Bureaus.

C. 2019 California Board of Accountancy Member Committee Interest Survey.

President Savoy provided an overview of the Committee Interest Form, which is used to appoint members to committees that assist the CBA with its mission of consumer protection. President Savoy stated that the committee interest surveys should be completed, as the surveys will be used by the next CBA President to appoint members to the Committee on Professional Conduct (CPC), Enforcement Program Oversight Committee (EPOC), Legislative Committee (LC), Strategic Planning Committee (SPC), and the CBA liaisons for the Enforcement Advisory Committee (EAC), Peer Review Oversight Committee (PROC), and Qualifications Committee (QC).

D. Report on the National Association of State Boards of Accountancy Annual Meeting held on October 28 through October 31, 2018.

Ms. Salazar reported she attended the NASBA Annual Meeting, held in Scottsdale, Arizona. She stated that NASBA is in a triparty relationship with the American Institute of Certified Public Accountants (AICPA), and Prometric, which allows NASBA to monitor any issues within the Uniform CPA Examination (CPA Exam).

Ms. Salazar stated that at the annual meeting, there were discussions regarding continuous testing, curriculum, and on-going mobility issues and successes.

E. Announcement of California Board of Accountancy Members Appointed to the National Association of State Boards of Accountancy Committees.

President Savoy reported that the following CBA members were appointed to a NASBA Committee:

- Carola A. Nicholson, CPA – Diversity Committee
- Katrina L. Salazar, CPA – Chairperson of the Bylaws Committee

F. Update on Key Issues and Incentives in the Certified Public Accounting Profession.

Mr. Dustin stated that his role as NASBA's Vice-President of State Boards Relations is to listen to the issues and concerns of the various Boards and provide resources to respond to the Boards within a timely manner.

Mr. Dustin provided an overview of NASBA's upcoming meetings, various NASBA tools and services, the CPA Exam, firm mobility, the Uniform Accountancy Act (UAA) Committee, issues on the horizon, AICPA-NASBA Joint Projects, code of professional conduct, and Continuing Professional Education (CPE) reciprocity.

Mr. Dustin stated that NASBA tracks over 580 bills nationwide that have a direct impact on boards of accountancy. He stated that the bills do not always

have an impact or are identified as an accountancy bill and that they are general bills that affect multiple professions.

Mr. Dustin stated that NASBA is hoping to launch the CPE audit tool in March of 2019. He stated that the CPE audit tool will assist Boards in completing their CPE audits.

Mr. Dustin stated that the eighth edition of the UAA was issued in January of 2018. He stated that some of the changes since the last release included CPA retired status, a new international recognition pathway, updated language, and revised CPE Standards and CPE Model Rules. He stated that going forward, revisions will be made as UAA changes are approved.

Mr. Dustin stated that one of the biggest issues for the UAA Committee is the noncompliance with local laws and regulations. He stated that the UAA Committee, along with AICPA's Professional Ethics Executive Committee, are looking at how confidentiality might be affected regarding non-compliance with laws and regulations (NOCLAR).

Mr. Dustin stated that at various meetings this past year, there were numerous discussions regarding the possibility of having a pathway to licensure individuals with a technology background. He stated that NASBA and the AICPA have established a ten person workgroup which will provide feedback regarding technology and its impact on the profession.

Mr. Dustin stated that he received questions from CBA members prior to the November CBA meeting, which included topics regarding technology changes for the CPA profession, the appeal of public accounting to graduates and related staff shortages, and enhancing the value of services to the consumers and third party users of financial statements.

Mr. Dustin stated that one question he received from a CBA member was if there is a trend toward technology for tax compliance, auditing, etc. viewed by accounting leaders as an opportunity or a threat towards the way that large and small practitioners manage their firms. He stated that there is certainly a threat that there will be more reliance on technology solutions versus human or CPA input. He stated that technology might replace some of the routine tasks.

Mr. Dustin stated that the overall impact of technology changes on clients and meeting their needs presents an opportunity to the profession to enhance the reliability and consistency while providing added efficiencies and cost savings. He stated that looking at all transactions rather than a sample of transactions will be a benefit to the public.

Mr. Dustin stated that the balance of the efficiency of technology and the skills of an audit judgement will require changes to professional standards and it cannot be subjective. He stated that preliminary discussions have already

begun between the AICPA and NASBA on what will be possible through the use of technology and computers versus human interaction. He stated that technology would not replace auditor judgement.

Mr. Dustin stated another inquiry he received was regarding what measures are being taken nationally to increase the appeal of public accounting versus private industry to graduates and younger professionals at a time when firms are suffering staff shortages. He stated that technology is enhancing what entry-level CPAs are doing today. He stated that in talking with large firms, they are not hiring fewer people, but that efficiencies result in less hires in entry-level positions and this enhances the opportunities for small and medium firms to hire highly qualified individuals to work in those firms and those firms are now suffering from an inability to hire enough people.

Ms. León inquired what trends are being seen across the nation in the adoption of blended and nano learning programs.

Mr. Dustin stated that NASBA is in the process of trying to track regulation changes across all the Boards so it will be aware of the regulations regarding blended and nano programs. He stated that the Boards that he has visited this year are looking to adopt blended and nano learning between now and 2019.

Mr. Famalett stated that in California legislation has been introduced limiting how far back we can consider certain crimes when considering how the CBA disciplines a CPA and inquired how other Boards may be looking at substantially related standards when administering discipline.

Mr. Dustin stated that there is much discussion around the country regarding this subject. He stated not so much limiting the certain number of years with respect to an application and whether there was some sort of misconduct in the application process versus a lot of discussion of not allowing criminal convictions to prohibit you from obtaining a license to begin with.

Ms. Hinds inquired if NASBA has seen any trends regarding any cyber security issues within the accounting industry and ways in which we can help licensees to make sure they are employing the best practices to protect their data.

Mr. Dustin stated that at the NASBA Annual Meeting in Arizona, there was a two-person panel, which included a special agent from the Phoenix area FBI office, speaking about cyber security. He stated that NASBA is going to attempt to have either this agent speak at a meeting that is being held in San Antonio Texas or try to secure an agent from the San Antonio FBI office. He stated that there have been quite a few recent articles in magazines like Accounting Today regarding cyber security and password protection and what firms can do to make sure their data is safe.

G. Discussion and Approval of the CBA's Sunset Review Report, Including Approval of Legislative Proposals:

- Amend Business and Professions Code Section 5134 to Increase the California Board of Accountancy's Maximum License Renewal and Initial Permit Fee Amounts.
- Amend Business and Professions Code Section 5008 to Allow the California Board of Accountancy to Distribute the UPDATE Publication and Reports of Other Matters of Interest to the Public and Practitioners Through Electronic Mail and the California Board of Accountancy's Website.
- Amend Business and Professions Code Sections 5070, 5070.5, 5073, 5096, 5096.12, 5151, and 5152.1 to Require California Board of Accountancy Applicants and Licensees to Provide Electronic Mail Addresses.
- Adopt Business and Professions Code Section 5001.2 Related to the Denial of an Application for Certified Public Accountant Licensure.

Mr. Franzella provided an overview of this item.

Ms. Molina Lopez inquired other than the Legislature, who else views the Sunset Review Report.

Mr. Franzella stated that the Legislature is the primary audience and that the report will be available for stakeholders to view on the website.

Ms. Corrigan stated that it appears that the question in the top of the table on page 25 of the report is not included in the table.

Ms. Corrigan stated that on page 53, question 31 of the report asks how many schools are approved by the CBA and how often are approved schools reviewed. She stated the answer states that the CBA does not approve schools and that the CBA relies on regional and national accrediting agencies to access whether the education earned will meet the requirements for licensure, but it does not say how often those agencies are reviewed. She inquired if that information should be included in the report.

Ms Bowers stated that the reason why we did not answer how often the approved schools are approved is because the CBA does not approve those schools. She stated that staff can articulate the answer in a better way.

It was moved by Ms. Berhow and seconded by Ms. Salazar to:

- **Approve the four legislative proposals to enact policy decisions reached by the CBA and included in Section 11 – New Issues of its Sunset Report and authorize the Executive Officer to work with Legal Counsel to make any changes as requested by the CBA**

- **Approve the Sunset Report and authorize the CBA President and Executive Officer to make any final edits as requested by the CBA, including any non-substantive changes**

Yes: Ms. Berhow, Mr. Famalett, Ms. Corrigan, Ms. Geong, Ms. Hinds, Ms. León, Ms. Molina Lopez, Ms. Nicholson, Ms. Salazar, Mr. Savoy, and Mr. Silverman.

No: None.

Abstain: None.

Absent: Mr. Campos, Mr. Jacobson, and Ms. Robinson.

- H. Developments Since the February 2015 United States Supreme Court Decision: North Carolina State Board of Dental Examiners v. Federal Trade Commission.

There was no report on this agenda item.

- I. Department of Consumer Affairs Director's Report on Departmental Activities.

Ms. Nelson reported that the Director's Quarterly Meeting was held on October 9, 2018. She stated that at the meeting, DCA provided updates on the Executive Officer Salary Study and the Division of Investigations Client Survey. She stated that a draft plan to implement Assembly Bill 2138 was also provided at the meeting.

Ms. Nelson stated that the Licensing and Enforcement workgroup continue to meet monthly. She recognized Mr. Franzella and Ms. Sanchez for their participation and input that they provide in the workgroups.

Ms. Nelson reported that in October and November, the Office of Information Services preview an interactive reporting tool to promote openness and transparency and the reporting of performance metrics.

Ms. Nelson stated that the Future Leadership Development Training Program selected seven individuals to participate in three projects which include streamlining DCA's subject matter expert witness program, revising the enforcement performance measurers, and an awareness campaign for California military veterans and spouses to inform and educate Californians of the benefits, resources, and opportunities available through DCA.

- II. Report of the Vice-President.

- A. Recommendations for Appointment(s)/Reappointment(s) to the Enforcement Advisory Committee.

It was moved by Ms. Berhow and seconded by Mr. Silverman to appoint Douglas Aguilera, CPA as Vice-Chairperson to the EAC effective January 1, 2019 through December 31, 2019.

Yes: Ms. Berhow, Mr. Famalett, Ms. Corrigan, Ms. Geong, Ms. Hinds, Ms. León, Ms. Lopez, Ms. Nicholson, Ms. Salazar, Mr. Savoy, and Mr. Silverman.

No: None.

Abstain: None.

Absent: Mr. Campos, Mr. Jacobson, and Ms. Robinson.

It was moved by Ms. Hinds and seconded by Ms. Salazar to reappoint Joseph R. Rosenbaum, CPA as Chairperson to the EAC effective January 1, 2019 through December 31, 2019.

Yes: Ms. Berhow, Mr. Famalett, Ms. Corrigan, Ms. Geong, Ms. Hinds, Ms. León, Ms. Lopez, Ms. Nicholson, Ms. Salazar, Mr. Savoy, and Mr. Silverman.

No: None.

Abstain: None.

Absent: Mr. Campos, Mr. Jacobson, and Ms. Robinson.

- B. Recommendations for Appointment(s)/Reappointment(s) to the Qualifications Committee.

It was recommended by Ms. Salazar and seconded by Ms. Corrigan to appoint Angela Honzik, CPA as Vice-Chairperson to the QC effective January 1, 2019 through December 31, 2019.

Yes: Ms. Berhow, Mr. Famalett, Ms. Corrigan, Ms. Geong, Ms. Hinds, Ms. León, Ms. Lopez, Ms. Nicholson, Ms. Salazar, Mr. Savoy, and Mr. Silverman.

No: None.

Abstain: None.

Absent: Mr. Campos, Mr. Jacobson, and Ms. Robinson.

It was recommended by Ms. Berhow and seconded by Ms. Salazar to appoint Kimberly Sugiyama, CPA as Chairperson to the QC effective January 1, 2019 through December 31, 2019.

Yes: Ms. Berhow, Mr. Famalett, Ms. Corrigan, Ms. Geong, Ms. Hinds, Ms. León, Ms. Lopez, Ms. Nicholson, Ms. Salazar, Mr. Savoy, and Mr. Silverman.

No: None.

Abstain: None.

Absent: Mr. Campos, Mr. Jacobson, and Ms. Robinson.

It was recommended by Ms. Hinds and seconded by Ms. Berhow to appoint Pradeep Budhiraja, CPA to the QC effective November 15, 2018 through November 30, 2020.

Yes: Ms. Berhow, Mr. Famalett, Ms. Corrigan, Ms. Geong, Ms. Hinds, Ms. León, Ms. Lopez, Ms. Nicholson, Ms. Salazar, Mr. Savoy, and Mr. Silverman.

No: None.

Abstain: None.

Absent: Mr. Campos, Mr. Jacobson, and Ms. Robinson.

C. Recommendations for Appointment(s)/Reappointment(s) to the Peer Review Oversight Committee.

It was recommended by Ms. Berhow and seconded by Ms. Corrigan to appoint Renee Graves, CPA as Vice-Chairperson to the PROC effective January 1, 2019 through December 31, 2019.

Yes: Ms. Berhow, Mr. Famalett, Ms. Corrigan, Ms. Geong, Ms. Hinds, Ms. León, Ms. Lopez, Ms. Nicholson, Ms. Salazar, Mr. Savoy, and Mr. Silverman.

No: None.

Abstain: None.

Absent: Mr. Campos, Mr. Jacobson, and Ms. Robinson.

It was recommended by Mr. Silverman and seconded by Ms. Berhow to reappoint Jeffrey De Lyser, CPA as Chairperson to the PROC effective January 1, 2019 through December 31, 2019.

Yes: Ms. Berhow, Mr. Famalett, Ms. Corrigan, Ms. Geong, Ms. Hinds, Ms. León, Ms. Lopez, Ms. Nicholson, Ms. Salazar, Mr. Savoy, and Mr. Silverman.

No: None.

Abstain: None.

Absent: Mr. Campos, Mr. Jacobson, and Ms. Robinson.

III. Report of the Secretary/Treasurer.

A. Fiscal Year 2018-19 First Quarter Financial Report.

There was no report on this agenda item.

IV. Report of the Executive Officer.

A. Update on Staffing.

There was no report on this agenda item.

B. Update Regarding the Implementation of Credit Card Payment for License Renewal.

Ms. Pearce stated that staff are in the process of recruiting licensees to test the system. She stated that the test users will be licensees who have a renewal coming up in December or January.

Ms. Pearce stated that the preliminary outreach has already begun on social media. She stated that additional outreach via the website as well as with various stakeholders will also occur as the launch date becomes final.

Ms. Pearce stated that Information Technology (IT) staff are working on a system that will allow licensees to submit their license renewal information online. She stated that this will eliminate the need to send in a hardcopy of the license renewal application via the mail. She stated that in the interim, licensees will have the option to email their license renewal application, following a successful completion and confirmation of the on-line payment.

Ms. León inquired if the on-line renewal application will be mobile friendly.

Ms. Pearce stated that yes the on-line renewal process will be mobile friendly.

Ms. Molina Lopez inquired on what outreach will staff provide regarding on-line payments.

Ms. Pearce stated that outreach efforts would include information in the UPDATE Publication, information on the CBA website and via social media, sending out postcards to licensees, and including the information on future renewal applications.

C. Discussion and Possible Action Regarding the 2018 California Board of Accountancy Annual Report.

Mr. Bone stated that the CBA's Annual Report discusses the accomplishments of the CBA during the prior fiscal year as the CBA fulfills its mission of consumer protection. He stated that the report will be made available to view on the CBA's website.

D. Update on the California Board of Accountancy's Communications and Outreach.

Mr. Bone stated that Mr. Famalett participated in CalCPA's "So You Want to Be a CPA Webinar" which was held on October 15. He stated that Mr. Famalett shared his perspective and recommendations on how to find a CPA firm that will advance an applicant's career.

Mr. Bone stated that on October 29, CBA Licensing Chief, Gina Sanchez spoke to CalCPA's Accounting Education Committee, whose purpose is to improve accounting education in California through the collaboration of educators and practitioners.

Mr. Bone stated that on November 30, Ms. Corrigan spoke to students at Pasadena City College regarding the role of the CBA in the process to become a certified public accountant.

Mr. Bone stated that staff have collaborated with NASBA to improve the CBA's communication materials and develop new resources to help licensees and applicants to understand the CBA's requirements and processes.

V. Report on the Enforcement Advisory Committee, Qualifications Committee, and Peer Review Oversight Committee.

A. Enforcement Advisory Committee.

1. Report of the October 18, 2018 Enforcement Advisory Committee Meeting.

Mr. Rosenbaum reported that members reviewed 11 closed cases and held four investigative hearings.

B. Qualifications Committee.

1. Report of the October 24, 2018 Qualifications Committee Meeting.

Ms. Pearce reported that at QC and subcommittee meetings that were held in October there were a total 16 Section 69 reviews. She stated that 15 were recommended for approval of CPA license and one was deferred.

C. Peer Review Oversight Committee.

There was no report on this agenda item.

VI. Report of the Enforcement Chief.

A. Enforcement Activity Report.

Mr. Franzella provided an overview of this item.

Ms. Molina Lopez inquired on why there are enforcement matters older than 24 months.

Mr. Franzella stated that the cases that are over 24 months are special cases that are technical investigations and complex matters.

VII. Report of the Licensing Chief.

A. Licensing Activity Report.

Ms. Pearce provided an overview of this item.

VIII. Petition Hearing.

A. Donald Gene Lucia, CPA License Number 36308 – Petition for Termination of Probation.

The CBA heard Mr. Lucia's petition for termination of probation which was provided by his legal counsel, J. Andrew Wright, Esq.

IX. Closed Session: Pursuant to Government Code Section 11126(c)(3), the California Board of Accountancy will Convene into Closed Session to Deliberate on the Above Petition.

X. Report on the Committee on Professional Conduct.

A. Committee on Professional Conduct.

1. Report of the November 15, 2018, Committee on Professional Conduct Meeting.
2. Discussion Regarding Changes in Eligibility Requirements of the American Institute of Certified Public Accountants' Accredited in Business Valuation Credential.

Ms. Berhow stated that the purpose of this agenda item was to discuss the recent changes to the AICPA's Accredited in Business Valuation (ABV) credential.

Ms. Berhow stated that ABV credential is offered for those who qualify, indicating that they have demonstrated a certain level of expertise in business valuation practices. She stated that these professionals often work in the areas of fair value reporting, merges and acquisitions, and bankruptcy.

Ms. Berhow stated that historically, the ABV credential was only available to CPAs. She stated that in May of this year, AICPA changed their eligibility requirements to allow non-CPA finance professionals to qualify and obtain the ABV credential.

Ms. Berhow stated that staff recommend the CBA direct staff to monitor the changes for any potential consumer confusion and report back to the CBA with any recommended next steps.

3. Discussion and Possible Action to Initiate a Rulemaking to Amend Title 16, California Code of Regulations, Section 7.1 – Credit Status for the computerized Uniform CPA Examination.

Ms. Berhow stated that the purpose of this agenda item was to provide an opportunity for the CBA to consider taking action to amend CBA Regulations section 7.1, to accommodate a continuous testing format for the CPA Exam.

Ms. Berhow stated that the AICPA, in conjunction with NASBA, announced their intent to transition the CPA Exam to a continuous testing format and eliminate the present testing windows. She stated that to accommodate the upcoming transition in 2020, a minor change in CBA Regulations would be necessary.

Ms. Berhow stated that under the present format of the CPA Exam and consistent with CBA Regulations, an applicant can only take an unpassed section of the CPA Exam one time during a testing window. She stated that under continuous testing, this provision is no longer applicable.

The CPC recommended that the CBA:

- **Approve the regulatory text in CBA Regulations sections 7.1,**
- **Direct staff to submit the text to the Director of the Department of Consumer Affairs and the Business, Consumer Services, and Housing Agency for review; and**
- **If no adverse comments are received, authorize the Executive Officer to take all steps necessary to initiate the rulemaking process, make any non-substantive changes to the package, and set the matter for hearing.**

Yes: Ms. Berhow, Mr. Famalett, Ms. Corrigan, Ms. Geong, Ms. Hinds, Ms. León, Ms. Molina Lopez, Ms. Nicholson, Ms. Salazar, Mr. Savoy, and Mr. Silverman.

No: None.

Abstain: None.

Absent: Mr. Campos, Mr. Jacobson, and Ms. Robinson.

XI. Meeting Minutes.

- A. Adoption of the Minutes of the September 20-21, 2018, California Board of Accountancy Meeting.
- B. Adoption of the Minutes of the September 20, 2018 Strategic Planning Workshop.

It was moved by Ms. Hinds and seconded by Mr. Silverman to approve agenda items XI.A. and XI.B.

Yes: Mr. Famalett, Ms. Geong, Ms. Hinds, Ms. León, Ms. Salazar, Mr. Savoy, and Mr. Silverman.

No: None.

Abstain: Ms. Berhow, Ms. Corrigan, Ms. Molina Lopez, and Ms. Nicholson.

Absent: Mr. Campos, Mr. Jacobson, and Ms. Robinson.

- C. Acceptance of the Minutes of the September 20, 2018, Committee on Professional Conduct Meeting.
- D. Acceptance of the Minutes of the July 12, 2018 Enforcement Advisory Committee Meeting.
- E. Acceptance of the Minutes of the July 25, 2018, Qualifications Committee Meeting.

It was moved by Ms. Berhow and seconded by Mr. Silverman to accept agenda items XI.C. through XI.E.

Yes: Ms. Berhow, Mr. Famalett, Ms. Geong, Ms. Hinds, Ms. Salazar, Mr. Savoy, and Mr. Silverman.

No: None.

Abstain: Ms. Corrigan, Ms. León, Ms. Molina Lopez, and Ms. Nicholson.

Absent: Mr. Campos, Mr. Jacobson, and Ms. Robinson.

XII. Other Business.

A. American Institute of Certified Public Accountants.

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

a. State Board Committee.

Ms. Salazar reported that she attended the October 3 meeting via video conference. She stated that one of the topics included conversation regarding national passing rates for the CPA Exam. She stated that the committee is looking at overall CPA Exam section passing rates. She stated that there were conversations regarding updating the content within the data and analytics section. She stated there is an exam blueprint, which is revisited periodically to make sure the exams materials are appropriate.

Ms. Salazar stated that a lot of time was spent discussing the American with Disabilities Act compliance and making the exam more accessible to persons with disabilities.

B. National Association of State Boards of Accountancy.

1. Report of the National Association of State Boards of Accountancy Pacific Regional Director.

Ms. Salazar stated that she attended the regional meeting that was held in conjunction with NASBA Annual Meeting in Scottsdale Arizona in October. She stated that at the meeting there was discussions regarding the Evolution Workgroup, education and consistency within jurisdictions, Guam's program to attract accounting guest lecturers at their university, and the NASBA guidance by the Compliance Assurance Committee regarding peer reviews.

Ms. Salazar stated that there was also discussion regarding technology and the need to make changes.

Ms. Salazar stated that the 2019 NASBA Strategic Plan was approved at the annual meeting.

Ms. Berhow inquired if NASBA is looking at the CBA's retirement model or do they have different rules.

Ms. Salazar stated that NASBA is evaluating the distinctions and definitions of various models and they have some things in place. She stated that the UAA has addressed this and because of that, some states are going back and reviewing their retirement rules.

Ms. Hinds inquired if there has been conversations regarding the shrinking peer reviewer pool at the NASBA level and whether this is an issue across other jurisdictions.

Ms. Salazar stated that peer review is a topic that has been widely discussed. She stated that other states are starting to see what California is seeing in regard to peer reviewers. She stated that her perspective might not be the NASBA perspective. She stated that the CBA has been asking questions regarding peer reviewer population as a state because of what we are seeing in California and that it has been pushed up to the AICPA.

Ms. Bowers stated that we continue to express a level of concern regarding the peer reviewer population. She stated that we do not have specifics on what is being done but staff have recently elevated the communication to the AICPA and staff will continue to work with the PROC regarding this matter.

Mr. Dustin stated that because there is a consolidation of peer review administering entities, there is a concern that as state societies decide not to administer peer reviews, that the individuals that are doing peer reviews in those states will conclude that they no longer want to do them if the administering entity is in another state. He stated that in conversations with the individual from the AICPA that is responsible in overseeing the peer reviewers at a management level, he believes that there are a sufficient number of peer reviewer firms to continue to do peer reviews.

Ms. Salazar stated that when the CBA addressed peer reviewer population as a whole and staff reviewed data, what we noticed was more of a succession issue. She stated that we have a relatively small number of peer reviewers providing a large quantity of peer reviews. She stated that the issue became one of succession as peer reviewers retire, resign, move out of state, or cease to provide the service, whether there are enough peer reviewers to back-fill those positions.

Ms. Geong inquired if other states do not require audit hours to become licensed as a CPA, would they be qualified to conduct a peer review.

Mr. Dustin stated that most states follow the UAA requirements for initial licensure that are required when you are experienced performing any type of accounting work in various locations under the supervision of a CPA. He stated that however, the peer review is conducted by a team that is overseen by a team captain and has to meet specific requirements that are outlined in the peer review manual. He stated that even though individuals may be licensed as a CPA without attest experience, the requirements to perform a peer review as a team captain and to be on a peer review team, require attest experience.

2. Report on Meetings of the National Association of State Boards of Accountancy Attended by a California Board of Accountancy Member or Staff.

a. Bylaws Committee.

There was no report on this agenda item.

b. Enforcement Resources Committee.

There was no report on this agenda item.

c. Relations with Member Boards Committee.

There was no report on this agenda item.

d. Strategic Planning Task Force.

There was no report on this agenda item.

XIII. Officer Elections.

A. Secretary-Treasurer.

It was moved by Mr. Silverman and seconded by Ms. Berhow to appoint Nancy J. Corrigan, CPA as Secretary/Treasurer of the California Board of Accountancy.

Yes: Ms. Berhow, Mr. Famalett, Ms. Corrigan, Ms. Geong, Ms. Hinds, Ms. León, Ms. Molina Lopez, Ms. Nicholson, Ms. Salazar, Mr. Savoy, and Mr. Silverman.

No: None.

Abstain: None.

Absent: Mr. Campos, Mr. Jacobson, and Ms. Robinson.

B. Vice-President.

It was moved by Ms. Berhow and seconded by Ms. León to appoint Mark J. Silverman, Esq. as Vice-President of the California Board of Accountancy.

Yes: Ms. Berhow, Mr. Famalett, Ms. Corrigan, Ms. Geong, Ms. Hinds, Ms. León, Ms. Molina Lopez, Ms. Nicholson, Ms. Salazar, Mr. Savoy, and Mr. Silverman.

No: None.

Abstain: None.

Absent: Mr. Campos, Mr. Jacobson, and Ms. Robinson.

C. President.

It was moved by Ms. Berhow and seconded by Ms. Hinds to appoint George Famalett, CPA as President of the California Board of Accountancy.

Yes: Ms. Berhow, Mr. Famalett, Ms. Corrigan, Ms. Geong, Ms. Hinds, Ms. León, Ms. Molina Lopez, Ms. Nicholson, Ms. Salazar, Mr. Savoy, and Mr. Silverman.

No: None.

Abstain: None.

Absent: Mr. Campos, Mr. Jacobson, and Ms. Robinson.

XIV. Closing Business.

A. Public Comments.

There were no public comments.

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

Mr. Savoy requested that staff provide the CBA with information regarding the qualifications of a peer reviewer and the amount of peer review providers in California.

- XV. Closed Session: Pursuant to Government Code Section 11126(a)(1), the Board Will Meet in Closed Session to Conduct the Annual Evaluation of its Executive Officer.
- XVI. 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.

Adjournment.

President Savoy adjourned the meeting at 3:18 p.m. on Thursday, November 15, 2018.

_____ George Famalett, CPA, President

_____ Nancy J. Corrigan, CPA, Secretary/ Treasurer

Rebecca Reed, Board Relations Analyst, and Patti Bowers, Executive Officer, CBA, prepared the CBA meeting minutes. If you have any questions, please call (916) 561-1718.



California Board of Accountancy
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EPOC Item I.
January 17, 2019

CBA Item XI.B.
January 17, 2019

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

DRAFT

MINUTES OF THE
March 22, 2018
ENFORCEMENT PROGRAM OVERSIGHT COMMITTEE (EPOC) MEETING

Wyndham Irvine-Orange County Airport Hotel
17941 Von Karman Avenue
Irvine, CA 92614
Telephone: (949) 345-1856

Roll Call and Call to Order.

Mr. Mark Silverman called the meeting of the EPOC to order at 11:16 a.m. on
Thursday, March 22, 2018 at the Wyndham Irvine-Orange County Airport Hotel.

Mr. Silverman requested that the roll be called.

Members

Sunny Youngsun Park, Esq., Chair
Alicia Berhow
Jose A. Campos, CPA
Xochitl León
Luz Molina Lopez
Carola A. Nicholson, CPA
Mark Silverman, Esq., Acting Chair

Absent
11:16 a.m. – 11:35 a.m.
11:16 a.m. – 11:35 a.m.
11:16 a.m. – 11:35 a.m.
11:16 a.m. – 11:35 a.m.
11:16 a.m. – 11:35 a.m.
11:16 a.m. – 11:35 a.m.

CBA Members Observing

Michael M. Savoy, CPA, President
George Famalett, CPA, Vice-President
Dan Jacobson, Esq.
Katrina L. Salazar, CPA
Kathleen Wright, CPA

CBA Staff and Legal Counsel

Patti Bowers, Executive Officer
Deanne Pearce, Assistant Executive Officer
Rich Andres, Information Technology Staff
Aaron Bone, Information and Planning Officer
Ileana Butu, Legal Counsel, DCA
Angela Contreras, Executive Assistant
Paul Fisher, Supervising Investigative CPA
Dominic Franzella, Chief, Enforcement Division
Nooshin Movassaghi, Legislative Analyst
Rebecca Reed, Board Relations Analyst
Gina Sanchez, Licensing Chief
Carl Sonne, Deputy Attorney General, Department of Justice

Committee Chairs and Members

Nancy Corrigan, CPA, Vice-Chair, Enforcement Advisory Committee
Jeffrey De Lyser, CPA, Chair, Peer Review Oversight Committee
Joe Rosenbaum, CPA, Chair, Enforcement Advisory Committee

Other Participants

Jason Fox, California Society of CPAs
Jo Ann Henkel
Pilar Oñate-Quintana, The Oñate Group
Karen Nelson, Assistant Deputy Director, Office of Board and Bureau Services
Jon Ross, KP Public Affairs

- I. Approval of the Minutes from the September 14, 2017 Enforcement Program Oversight Committee Meeting.

It was moved by Mr. Campos and seconded by Ms. León to approve the minutes of the September 14, 2017 EPOC meeting.

Yes: Ms. Berhow, Mr. Campos, Ms. León, Ms. Nicholson, and Mr. Silverman

No: None.

Abstain: Ms. Lopez

The motion passed.

- II. Staff Update Regarding Violations of Title 16, California Code of Regulations, Section 87(a)(1) Minimum Annual Continuing Education Requirement.

Mr. Franzella explained that the purpose of this agenda was to provide the CBA with information regarding implementation of CBA Regulations section 87(a)(1), commonly referred to as the 20/12 requirement.

Mr. Franzella provided a brief overview of the 20/12 requirement, which directs licensees to complete a minimum of 12 hours in technical subject matter along with

20 hours of continuing education (CE) in each year of their two-year license renewal period. He highlighted actions the CBA took to keep licensees informed of the 20/12 requirements since 2009, which included multiple forms of publications.

Mr. Franzella explained that historically, 20/12 violations have been handled by the CBA License Renewal Unit. He noted that the Licensing Renewal Unit issued warning letters for first 20/12 violations, referred subsequent violations to the CBA Enforcement Division to take enforcement actions on a case-by-case basis, which could include issuance of a citation and fine.

Mr. Franzella noted that all future license renewal applications identified to have violation of the 20/12 requirement will be referred to the Enforcement Division. He explained that the Enforcement Division will review the referrals on a case-by-case basis and determine whether to issue warning letters or citation and fines for subsequent violations, depending on the severity of the CE deficiency. He further noted that some matters eventually may be referred to the Attorney General's Office.

The CBA discussed the rationale to shift the 20/12 requirement workload from the License Renewal Unit to the Enforcement Division, specifically first violations and how to address licensees approaching their fourth violations.

Mr. Campos encouraged using citation and fines as a mechanism to counter licensees approaching a fourth violation.

Mr. Franzella explained that the Enforcement Division has the resources to manage the workload. Ms. Bowers commented that the License Renewal Unit would continue to manage the license renewal and diligently work with licensees to bring them to compliance.

Ms. Henkel provided a comment in support of the Enforcement Division procedures.

III. Public Comments.

Ms. Henkel provided comments regarding petitions to amend the CBA Regulations.

IV. Agenda for Next Meeting.

None.

Adjournment.

There being no further business to be conducted, the meeting was adjourned at 11:35 a.m.



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LC Item I.
January 17, 2019

CBA Item XI.C.
January 17, 2019

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

MINUTES OF THE
July 26, 2018
LEGISLATIVE COMMITTEE (LC) MEETING

DRAFT

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

Katrina Salazar, CPA, on behalf of the Chair, called the meeting of the LC to order at 9:00 a.m. on Thursday, July 26, 2018, at the Hilton Los Angeles Airport Hotel. Ms. Salazar requested that the roll be called.

LC Members

Michael M. Savoy, CPA, President Present
Katrina L. Salazar, CPA, served as the Present
Chair
Karriann Farrell Hinds, Esq. Absent
Luz Molina Lopez Present
Carola A. Nicholson, CPA Present
Deidre Robinson Absent
Kathleen K. Wright, CPA Present

CBA Members Observing

Jose A. Campos, CPA
George Famalett, CPA, Vice-President
Sunny Youngsun Park, Esq.
Mark Silverman, Esq., Secretary/Treasurer

CBA Staff and Legal Counsel

Patti Bowers, Executive Officer
Deanne Pearce, Assistant Executive Officer
Rich Andres, Information Technology Staff
Aaron Bone, Information and Planning Officer

Ileana Butu, Legal Counsel, DCA
Dominic Franzella, Chief, Enforcement Division
Nooshin Movassaghi, Legislative Analyst
Dorothy Osgood, Supervising Investigative CPA
Rebecca Reed, Board Relations Analyst
Gina Sanchez, Chief, Licensing Division
Carl Sonne, Deputy Attorney General, Department of Justice

Other Participants

Dean Andal, The Accounting Coalition
Jeffrey De Lyser, CPA, Chair, Peer Review Oversight Committee
Jason Fox, California Society of CPAs (CalCPA)
Karen Nelson, Assistant Deputy Director, Office of Board and Bureau Services
Pilar Oñate-Quintana, The Oñate Group
Joseph Rosenbaum, CPA, Chair, Enforcement Advisory Committee
Jon Ross, KP Public Affairs

- I. Approve Minutes of the May 17, 2018 LC Meeting.

It was moved by Ms. Molina Lopez and seconded by Ms. Nicholson to adopt the minutes of the May 17, 2018, LC meeting.

Yes: Ms. Molina Lopez, Ms. Nicholson, Ms. Salazar, and Ms. Wright.

No: None.

Abstain: Mr. Savoy.

Absent: Ms. Hinds and Ms. Robinson.

The motion passed.

- II. California Board of Accountancy 2018 Legislative Tracking Chart.

The LC did not take any action on this item as it was a written report only.

- III. Update, Discussion, and Possible Action on Legislation on Which the California Board of Accountancy Has Taken a Position.

- A. Assembly Bill 767 – Master Business License.

Ms. Movassaghi stated that Assembly Bill (AB) 767 was amended and would establish the Information Technology Unit within the Governor's Office of Business and Economic Development for the purpose of using technology as an outreach and service delivery method.

Staff reached out to the author's office and it confirmed this bill does not impact the CBA.

Staff suggested that the LC maintain its Watch position on AB 767, as the July 2, 2018, amendments were minor.

The LC did not take any action on this item and maintained its Watch position on AB 767.

B. Assembly Bill 2087 – State Government Operations: Technology Modernization.

Ms. Movassaghi stated that AB 2087 was amended and would require each state agency to establish modernization goals no later than January 1, 2020.

The LC did not take any action on this item and maintained its Watch position on AB 2087.

C. Assembly Bill 2138 – Licensing Boards: Denial of Application: Revocation or Suspension of Licensure: Criminal Conviction.

Mr. Bone reported that staff continued its participation in advocating the CBA's position on this bill by attending various meetings, testifying at legislative committee hearings, and providing feedback to the authors and other stakeholders.

He stated that the June 20, 2018, amendments to AB 2138 were a positive development but that some concerning provisions remain in the bill.

Mr. Bone reported that approximately 20 DCA boards and bureaus have taken an Oppose or Oppose Unless Amended position on this bill. He stated that although DCA had not taken a position, its Deputy Director of Legislative Affairs commended the CBA's efforts on this bill.

He informed the members that the July CBA meeting is the final regularly scheduled meeting before the Legislature adjourns for the year and that staff may request, at a later date, that the CBA call a special meeting to discuss and possibly change its position on the bill.

Mr. Bone stated that staff will continue to work with the author's office and other stakeholders to express the CBA's concerns and suggested the LC maintain its Oppose Unless Amended position on AB 2138.

The LC did not take any action on this item and maintained its Oppose Unless Amended position on AB 2138.

D. Assembly Bill 2483 – Indemnification of Public Officers and Employees: Antitrust Awards.

Ms. Movassaghi stated that AB 2483 missed a legislative deadline and will not move forward.

It was moved by Ms. Molina Lopez and seconded by Ms. Nicholson to recommend that the CBA discontinue following AB 2483.

Yes: Ms. Molina Lopez, Ms. Nicholson, Mr. Savoy, Ms. Salazar, and Ms. Wright.

No: None.

Abstain: None.

Absent: Ms. Hinds and Ms. Robinson.

The motion passed.

E. Assembly Bill 2958 – State Bodies: Meetings: Teleconference.

Ms. Movassaghi stated that AB 2958 was amended to change the requirement to adopt teleconferencing “regulations” to “guidelines.”

She informed the members that staff reached out to the author’s office and was informed that the bill will be amended in August and may change significantly. According to the author, these provisions are meant to be permissive and would allow alternate teleconference requirements.

The LC did not take any action on this item and maintained its Watch position on AB 2958.

F. Senate Bill 715 – Department of Consumer Affairs: Regulatory Boards: Removal of Board Members.

Ms. Movassaghi stated that Senate Bill (SB) 715 would grant the Governor the power to remove any member of a board appointed by the Governor within DCA. She informed the members that the bill had not been amended since the last CBA meeting.

The LC did not take any action on this item and maintained its Support position on SB 715.

G. Senate Bill 795 – Accountancy: Practice Privilege.

Ms. Movassaghi reported that SB 795 was amended to include changes requested by the CBA in its Support if Amended letter.

She informed the members that because these amendments satisfy the CBA's request, the CBA now has a Support position on SB 795.

The LC did not take any action on this item.

H. Senate Bill 984 – State Boards and Commissions: Representation: Women.

Ms. Movassaghi reported that SB 984 was recently amended to 1.) clarify the term “woman” to mean an individual who self-identifies her gender as a woman, and 2.) delays until January 1, 2024, the requirement to have a certain number of women board members.

Ms. Molina Lopez requested that staff contact the author's office to get additional information regarding the change in effective date.

The LC did not take any action on this item and maintained its Watch position on SB 984.

I. Senate Bill 993 – Sales Tax: Services.

Ms. Movassaghi reported that SB 993 was amended and would, starting January 1, 2020, impose up to a three percent tax on services and reduce the statewide base sales and use tax rate up to two percent.

She informed the members that SB 993 did not have an impact on the CBA's mission of consumer protection. However, the bill would broaden the tax base by imposing a sales tax on services, including those provided by certified public accountants.

The LC did not take any action on this item and maintained its Watch position on SB 993.

J. Senate Bill 1121 – Personal Information.

Ms. Movassaghi stated that SB 1121 was amended and would define “breach” as unauthorized access, use, modification, or disclosure of personal information.

She highlighted that this was a minor amendment and staff recommend the CBA maintain its Watch position on SB 1121.

The LC did not take any action on this item and maintained its Watch position on SB 1121.

K. Senate Bill 1159 – Accountancy: Inactive License.

Ms. Movassaghi stated that SB 1159 missed a legislative deadline and will not move forward.

It was moved by Ms. Molina Lopez and seconded by Ms. Nicholson to recommend that the CBA discontinue following SB 1159.

Yes: Ms. Molina Lopez, Ms. Nicholson, Mr. Savoy, Ms. Salazar, and Ms. Wright.

No: None.

Abstain: None.

Absent: Ms. Hinds and Ms. Robinson.

The motion passed.

L. Senate Bill 1492 – The Department of Consumer Affairs.

Ms. Movassaghi stated that SB 1492 was the CBA's omnibus bill and was amended to include the CBA's third and final proposal to add section 5100.1 to the Business and Professions Code (BPC), related to conclusive evidence in the CBA's enforcement practices.

She reported that the CBA was seeking additional amendments to SB 1492 to correct an inadvertent drafting error in a prior set of amendments that would have changed the structure of BPC 5100 and, therefore, required CBA to change its regulations and certain legal disciplinary documents. Staff worked collaboratively with Senate B&P committee staff on this matter.

The LC did not take any action on this item and maintained its Support position on SB 1492.

IV. Consideration of Positions on Legislation.

A. Senate Bill 930 – Financial Institutions: Cannabis.

Ms. Movassaghi stated that SB 930 would establish cannabis limited charter banks and cannabis limited charter credit unions to provide limited banking services to the cannabis industry.

She highlighted that, although the bill did not directly impact the mission of the CBA, staff recommend a Watch position on SB 930, as it relates to the cannabis industry's financial services and therefore the accounting profession.

It was moved by Ms. Molina Lopez and seconded by Ms. Wright to recommend that the CBA take a Watch position on SB 930.

Yes: Ms. Molina Lopez, Ms. Nicholson, Mr. Savoy, Ms. Salazar, and Ms. Wright.

No: None.

Abstain: None.

Absent: Ms. Hinds and Ms. Robinson.

The motion passed.

- V. Update on Legislation the California Board of Accountancy is Monitoring.

The LC did not take any action on this item as it was a written report only.

- VI. Legislative Items for Future Meeting. The California Board of Accountancy may discuss other items of legislation in sufficient detail to determine whether such items should be on a future California Board of Accountancy meeting agenda and/or whether to hold a special meeting of the California Board of Accountancy to discuss such items pursuant to Government Code section 11125.4.

The LC did not discuss any new legislation.

- VII. Agenda Items for Next Meeting.

None.

There being no further business to be conducted, the meeting was adjourned at 9:33 a.m.



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CBA Item XI.D.
January 17, 2019

DEPARTMENT OF CONSUMER AFFAIRS
CALIFORNIA BOARD OF ACCOUNTANCY (CBA)

MINUTES OF THE
October 18, 2018
ENFORCEMENT ADVISORY COMMITTEE (EAC) MEETING

DoubleTree Hotel San Diego Downtown
1646 Front Street
San Diego, CA 92101
Telephone: (619) 239-6800

Roll Call and Call to Order.

EAC Vice-Chair, Jeffrey De Lyser, CPA, called to order the regularly scheduled meeting of the EAC at 8:59 a.m. on October 18, 2018, at the DoubleTree Hotel San Diego Downtown.

Mr. De Lyser read the following into the record:

“The CBA’s mission is to protect consumers by ensuring only qualified licensees practice public accountancy in accordance with established professional standards.

This mission is derived from the statutory requirement that protection of the public shall be the highest priority for the California Board of Accountancy in exercising its licensing, regulatory, and disciplinary functions. Whenever the protection of the public is inconsistent with other interests sought to be promoted, the protection of the public shall be paramount.”

Members

Joseph Rosenbaum, CPA, Chair	Absent
Jeffrey De Lyser, CPA, Vice-Chair	Present
Doug Aguilera, CPA	Present
William Donnelly, CPA	Present
Thomas Gilbert, CPA	Present
Kathy Johnson, CPA	Present
Michael Johnson, CPA	Present
José Palma, CPA	Present
Nasi Raissian, CPA	Present
Jim Songey, CPA	Present

CBA Member:

Luz Molina Lopez

CBA Staff and Legal Counsel

Paul Fisher, Supervising Investigative CPA
Dominic Franzella, Chief, Enforcement Division
Brandon Lee, Enforcement Analyst
DeAnn MacConell, Investigative CPA
Denise Murata, Enforcement Analyst
Kari O'Connor, Enforcement Manager
Dorothy Osgood, Supervising Investigative CPA
Nancy Rimberg, Investigative CPA
Ben Simcox, Deputy Chief, Enforcement Division
Carl Sonne, Deputy Attorney General

I. Report of the Committee Chair (**Jeffrey De Lyser**).

Mr. De Lyser introduced new EAC Members Kathy Johnson and Nasi Raissian.

A. Approval of the July 12, 2018 EAC Meeting Minutes.

It was moved by Mr. Aguilera and seconded by Mr. Donnelly to approve the minutes of the July 12, 2018 EAC meeting.

Yes: Mr. Aguilera, Mr. De Lyser, Mr. Donnelly, Mr. Palma, and Mr. Songey.

No: None.

Abstain: Mr. Gilbert, Ms. Johnson, Mr. Johnson and Ms. Raissian

Absent: Mr. Rosenbaum

The motion passed.

II. Report of the CBA Liaison.

A. Report of the May 17, 2018 CBA and Committee Meetings (**Luz Molina Lopez**).

Ms. Lopez announced that at the July 26, 2018 meeting the CBA supported pursuing a legislative change that would require all licensees to provide a current and valid email address.

Ms. Lopez noted that at the September 20-21, 2018 CBA meeting the Department of Consumer Affairs conducted a Strategic Planning Workshop and the draft of the 2019-2021 Strategic Plan will be presented to the CBA at a future meeting. Finally, Ms. Lopez stated that the next CBA meeting will be on November 15-16, 2018 in San Diego.

III. Report of the Enforcement Chief (**Dominic Franzella**).

A. Enforcement Activity Report (EAR).

Mr. Franzella provided an overview of the most current report for fiscal year 2017/2018. He reported that the CBA received about 2,435 complaints closing out the fiscal year. He reported that the CBA closed over 2,300 cases, with 66 percent of the cases being closed within the first six months of the complaint, and 81 percent closed within one year.

Mr. Franzella stated that the CBA ended the fiscal year with a total of 158 probationers. He noted that a new section on the Enforcement Activity Report in regards to Probation will show the type of violations detected.

B. Report on Accusations and Final Disciplinary Orders Effective June 1, 2018 to August 31, 2018.

Mr. Franzella reported on this agenda item. Mr. Franzella noted that between June 1, 2018 to August 31, 2018, the CBA filed eight accusations and took 20 disciplinary actions.

IV. Public Comments for Items not on the Agenda.

No public comment was given

V. 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.]

VI. 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.]

VII. Adjournment.

The established subcommittees convened for investigative hearings from 10:00 a.m. to 2:24 p.m. The EAC general meeting reconvened as a quorum to vote on recommendations from the subcommittees at 2:25 p.m.

Having no further business to conduct, the EAC general meeting closed session adjourned at approximately 2:26 p.m.

Jeffrey De Lyser, CPA, Vice-Chair
Enforcement Advisory Committee

Prepared by: Denise Murata, Enforcement Analyst



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CBA Item XI.E.
 January 17, 2019

DEPARTMENT OF CONSUMER AFFAIRS
CALIFORNIA BOARD OF ACCOUNTANCY (CBA)

MINUTES OF THE
August 17, 2018
PEER REVIEW OVERSIGHT COMMITTEE (PROC) MEETING

California Board of Accountancy
 2450 Venture Oaks Way, Suite 420
 Sacramento, CA 95833
 Telephone: (916) 263-3680

Call to Order, Roll Call, Establishment of Quorum, and Opening Remarks.

Jeffrey De Lyser, CPA, PROC Chair, called the meeting of the PROC to order at 11:00 a.m. on Friday, August 17, 2018. The meeting adjourned at 1:19 p.m.

Members

Jeffrey De Lyser, CPA, Chair	11:00 a.m. – 1:19 p.m.
Kevin Harper, CPA, Vice-Chair	Absent
Renee Graves, CPA	11:00 a.m. – 1:19 p.m.
Alan Lee, CPA	11:00 a.m. – 1:19 p.m.
Sharon Selleck, CPA	11:00 a.m. – 1:19 p.m.
Fiona Tam, CPA	11:00 a.m. – 1:19 p.m.

CBA Member

George Famelett, CPA, CBA Member Liaison

CBA Staff

Corey Faiello-Riordan, Enforcement Manager
 Kari O'Connor, Enforcement Manager
 Alina Shev, Enforcement Analyst
 Ben Simcox, CPA, Deputy Chief, Enforcement Division
 Siek Run, Enforcement Analyst

Other Participants

Linda McCrone, CPA, California Society of Certified Public Accountants (CalCPA)
 Jason Fox, CalCPA
 Vinit Shrawagi, CalCPA
 Mr. De Lyser read the following into the record:

“The CBA’s mission is to protect consumers by ensuring only qualified licensees practice public accountancy in accordance with established professional standards.

This mission is derived from the statutory requirement that protection of the public shall be the highest priority for the California Board of Accountancy in exercising its licensing, regulatory, and disciplinary functions. Whenever the protection of the public is inconsistent with other interests sought to be promoted, the protection of the public shall be paramount.”

I. Report of the Committee Chair.

A. Approval of the May 11, 2018 Peer Review Oversight Committee Meeting Minutes.

PROC members reviewed and noted two edits.

It was moved by Ms. Selleck and seconded by Mr. Lee to approve the meeting minutes as corrected.

Yes: Mr. De Lyser, Ms. Selleck, Ms. Tam, and Mr. Lee.

No: None.

Abstain: Ms. Graves

Absent: Mr. Harper.

The motion passed.

B. Report on the May 17-18, 2018 and July 26-27, 2018 California Board of Accountancy Meetings

Mr. Famalett provided a summary for the May 17-18, 2018 and July 26-27, 2018 CBA Meetings. He noted that during the May 2018 CBA meeting, there was an update regarding the CBA project to accept credit card payments for license renewal and noted that the project is scheduled to initiate in November 2018. He further noted that the CBA has agreed to absorb the transaction fee associated with the credit card payments for license renewal.

Mr. Famalett noted that during the July 2018 CBA meeting, the CBA supported pursuing legislative changes to require all licensees to provide current and valid emails. He further noted that the CBA had directed staff to prepare for statutory language regarding electronic distribution of its UPDATE publication.

Mr. Famalett concluded that the CBA maintained its positions on several legislative bills and that the bills are available on the CBA’s website for viewing. He noted that the next CBA meeting will be held at the CBA Office in

Sacramento on September 20-21, 2018.

C. Discussion Regarding Proposed 2019 Peer Review Oversight Committee Meeting Dates.

Mr. De Lyser presented this agenda item. The PROC discussed and requested changes to the proposed meeting dates. The PROC recommended the following revised 2019 PROC meeting dates:

- February 15, 2019
- May 3, 2019
- August 16, 2019
- December 13, 2019

It was moved by Ms. Graves and seconded by Ms. Tam to approve the revised 2019 PROC meeting dates.

Yes: Mr. De Lyser, Ms. Selleck, Ms. Graves, Ms. Tam, and Mr. Lee

No: None.

Abstain: None.

Absent: Mr. Harper.

The motion passed.

D. Discussion and Possible Action Regarding Revisions to the Peer Review Oversight Committee's Oversight Procedures of its Administrative Site Visit to the California Society of Certified Public Accountants.

Mr. De Lyser and Ms. Graves presented this agenda item. Mr. De Lyser provided a brief overview of recent changes to the PROC procedures on administration of its annual site visit to the CalCPA.

Ms. Graves provided a brief overview of her visit to CalCPA on June 14, 2018. She explained that during her visit to CalCPA, she interviewed CalCPA staff and collected details regarding the CalCPA peer review administration process. She further noted that the information gathered helped develop solutions to address each of the risk variables within the PROC Administrative Site Visit Risk Map and Mitigating Procedures Checklist.

As part of the PROC's review and revision process of its Administrative Site Visit procedures, Mr. De Lyser asked the PROC to focus on *Appendix 2 – PROC Risk Map and Mitigating Procedures Checklist*. The PROC reviewed each of the risk variables, identified workloads that shifted from CalCPA to the Peer Review Information Management Application (PRIMA), and ongoing executable oversight activities to be completed by the PROC.

The PROC discussed the PRIMA system, its limitations with data, and AICPA's goal to enhance audit quality.

The PROC discussed *Appendix 4 – PROC Administrative Site Visit Summary Oversight Checklist (Appendix 4)* and decided that PROC members assigned to perform annual administrative site visits would report their findings to the PROC and complete Appendix 4 as a committee.

The PROC discussed and selected the administrative site visit date to take place after October 15, 2018.

E. Discussion of Emerging Issues and/or National Standards Regarding the Peer Review Program Impacting California.

No report.

II. Report on Peer Review Oversight Committee Oversight Activities Conducted Since May 11, 2018 and Future Activities.

A. Report on the May 24-25, 2018 California Society of Certified Public Accountants Peer Review Committee Meeting.

Ms. Graves and Ms. Tam reported on this agenda item. Ms. Graves briefly highlighted upcoming CalCPA meetings, including the November CalCPA Peer Review Committee meeting (PRC) in Yountville, California. She proceeded to highlight discussion topics that took place at the May 2018 meeting, which included benchmarks, limitations with statistics from PRIMA, oversight, and familiarity threats.

Ms. Graves continued to highlight additional topics discussed at the meeting which included a Standard Task Force (STF), changes to the broker-dealer checklist, nonconforming engagements, committee and team captain feedbacks, and findings for further consideration (FFC) related matters. She explained that although the percentage of enhanced oversight increased as the number of engagements decreased, it is expected that in three years the percentage of nonconforming reviews identified would decrease.

Ms. Graves noted that she had the opportunity to observe a disagreement panel and was impressed at how members listened to responses from firms.

Ms. Tam reported her observation during the second day of the CalCPA PRC meeting. She noted that there were discussions regarding the STF, risk assessments at various levels, AICPA enhanced audit quality, and a new guide expected to be released. She further noted that there was a continued discussion during a Report Acceptance Body (RAB) meeting regarding using "delayed vs. deferred." She noted that 1,200 reviews were completed last year by CalCPA, 1,500 during the prior year, and that the decrease of peer reviews completed was attributed to challenges with PRIMA and the lack of peer reviewers.

Ms. Tam concluded that there were discussions regarding single audits, Generally Accepted Auditing Standards, state licensures, familiarity threats, and a draft policy on familiarity threats was approved by the end of the meeting.

B. Report on the May 29, 2018 National Association of State Boards of Accountancy's Compliance Assurance Committee Meeting.

Mr. De Lyser reported on this agenda item. He briefly noted that during the National Association of State Boards of Accountancy (NASBA) Compliance Assurance Committee (CAC) meeting, there were discussions on guidance documentation for PROC oversight over administering entities (AE).

Mr. De Lyser noted that NASBA CAC meeting objectives may have shifted as the information gathered from his recent observations of the CAC meetings does not align with the existing PROC CAC checklist. He proceeded to explain that CAC meetings appear to largely focus on addressing the over-arching peer review program, less technical, enhanced oversight issues, benchmarks, and ways to distribute information to state boards.

Mr. De Lyser recommended that the PROC proceed to use the PROC Peer Review Board (PRB) Checklist in-place of the existing PROC CAC Checklist to oversee future CAC meetings, and asked that staff update the PROC CAC Checklist.

C. Report on the June 18, 2018 California Society of Certified Public Accountants Report Acceptance Body Meeting.

Ms. Selleck reported on this agenda item. She reported that she was impressed with the number of reviews completed by the RAB. She noted that there were detailed discussions regarding: audits – specifically Employee Retired Income Security Act, single audits, must-selects, nonconforming engagements, and consistency; and team captains – specifically reviews, feedback, and documentation; and four reviews changed from pass to pass with deficiency.

She concluded that RAB members questioned each other openly and candidly. She specified that she continues to be impressed and noted that expectations were met.

D. Report on the June 26, 2018 California Society of Certified Public Accountants Advance Peer Reviewer Update Training.

Mr. De Lyser reported on this agenda item. He explained that the training took place via webinar and the presenter was Marcia Heins. He noted that the training focused on findings from the enhanced oversight program report and specifically focused on the number of nonconforming issues found. He further noted that there were discussions on the causation of nonconforming, need for appropriate documentation, and procedures to verify.

He concluded that the training also focused on inherent risks, documents to

review risk, questions and answers, review of responses and case studies, and that the training met expectations.

- E. Report on the June 27, 2018 California Society of Certified Public Accountants New Peer Reviewer Training.

Ms. Tam presented on this agenda item. She noted that the training was also taught by Marcia Heins. She explained that the class was very effective and attendees were actively engaged in the case studies.

- F. Report on the August 2, 2018 American Institute of Certified Public Accountants Peer Review Board Meeting.

Mr. De Lyser reported on this agenda item. He noted that the meeting met expectations. He reported that the meeting was observed via conference call. He further noted that the meeting covered rule changes regarding dropping firms, clarified circumstances for reviews identified to be nonconforming, risk assessments, FFC deficiency, and the RAB oversight handbook.

Mr. De Lyser proceeded to elaborate on the RAB handbook and regulations regarding conflict of interest. He noted that the CBA PROC members are not required to sign confidentiality agreements, as the PROC only review and handle publically available documentation.

- G. Discussion Regarding Revisions to the Peer Review Oversight Committee Summary of Compliance Assurance Committee Meeting Checklist.

Mr. Simcox reported on this agenda item. He acknowledged Mr. De Lyser's recommendation to modify the PROC CAC Checklist during the discussion of PROC Agenda Item II.B. He proceeded to explain that the checklist would continue to evolve with guidance from PROC members.

- H. Report on Notices Posted on the American Institute of Certified Public Accountants' and National Association of State Boards of Accountancy's Websites Regarding Changes and Updates to the Peer Review Program.

Ms. Tam reported on this agenda item. She provided peer review-related updates from the AICPA website that took place in May, June, and July of 2018.

She elaborated on updates that pertained to professional standards, AICPA guides to audits and analytics, enhanced audit questions for attest services, RAB Handbook on familiarity threats policies and procedures, and updates to various AICPA checklists. She noted that some of the checklists were implemented as of June 1, 2018.

She provided additional peer review-related updates regarding the AICPA peer review program manual, RAB letters, PRIMA and suspension of non-cooperating reviewers and AE, inconsistent FFC, and availability of the AICPA enhanced audit quality report.

She concluded that the NASBA website update included letters and responses to exposure drafts.

I. Assignment of Future Peer Review Oversight Committee Oversight Roles, Responsibilities, Activities, and Assignments.

Mr. De Lyser presented this agenda item. He highlighted new 2018 PROC oversight activities and requested PROC members to participate and accept new assignments for upcoming PROC oversight activities.

Mr. De Lyser promptly asked for volunteers to oversight Out-of-State AEs and noted that a follow-up PROC agenda item will provide the PROC an opportunity to discuss accessibility to AICPAs oversight reports online and AE selections.

Oversight of Out-of-State AEs:

- Mr. De Lyser and Ms. Selleck

PROC Administrative Site Visit to CalCPA:

- Mr. De Lyser and Ms. Graves

CBA Meeting(s):

- September 20-21, 2018 – Mr. De Lyser (In-person)
- November 15-16, 2018 – Mr. De Lyser (In-person)

CalCPA RAB Meeting(s):

- September 26, 2018 – Ms. Tam at 2:00 p.m. (Call)
- October 11, 2018 – Ms. Graves at 2:00 p.m. (Call)
- October 23, 2018 – Mr. Lee at 2:00 p.m. (In-person)

CalCPA Peer Reviewer Committee Meeting:

- November 29-30, 2018 – Ms. Selleck and Mr. Lee (In-person)

AICPA PRB:

- October 19, 2018 – Mr. De Lyser, Mr. Lee, and Ms. Graves

NASBA CAC Meeting:

- November 8, 2018 – Mr. De Lyser (Call)

III. Report of the Enforcement Chief.

A. Discussion on Potential Items to Include in the 2018 Peer Review Oversight Committee Annual Report.

Mr. Simcox presented this agenda item. He highlighted that staff identified key topics for inclusion in the 2018 PROC Annual Report.

Mr. Simcox provided an overview timeline for the completion of the 2018 PROC Annual Report. He noted that staff will have a draft 2018 PROC Annual Report for the PROC to review at its December 2018 meeting and a final draft for approval at the PROC's February 2019 meeting, and a final PROC approved annual report will be presented at the March 2019 CBA meeting for approval.

Mr. De Lyser noted that the CBA indicated satisfaction with the current PROC Annual Report format.

B. Discussion and Action Regarding the Progress and Development of the Proposed Framework to Monitor the Peer Reviewer Population.

Mr. Simcox presented on this agenda item. He provided a brief overview of the PROC and CBA activities pertaining to the peer reviewer population. He explained that the CBA has received response letters from both CalCPA and ACIPA.

Mr. Simcox proceeded to note that during the July meeting, the CBA members reviewed significant statistical observations that may affect the California peer reviewer population. He further noted that CBA Member Katrina L. Salazar, CPA, volunteered to provide assistance to the PROC regarding development of the proposed framework to monitor the California peer reviewer population.

The PROC briefly discussed AICPA provided statistics regarding age and population of the California peer reviewer population. Mr. De Lyser concluded that no action was required from the PROC and that the PROC will continue to follow-up.

C. Information and Possible Action Regarding Improvements to the Peer Review Oversight Committee Oversight Procedures of Out-of-State Peer Review Administering Entities.

Mr. Simcox presented on this agenda item. He reiterated that the PROC asked staff to identify AEs assigned to jurisdictions (states) with high-volumes of California Out-of-State Firm Registrants (OFR) and to evaluate the AICPA oversight reports online availability.

Mr. Simcox presented to the PROC a list of AEs administering 20 jurisdictions identified to have high-volumes of OFRs and provided a brief overview of the staff recommended framework to oversight the AEs. He noted that staff recommended a two-year cycle to complete oversight of all 20 jurisdictions and highlighted jurisdictions previously reviewed by the PROC. The PROC decided to oversight both the New York and Washington AEs and the jurisdictions assigned to each.

The PROC expressed its concern regarding Ohio, one of 20 jurisdictions identified to have high-volumes of OFRs and the fact that it was not assigned to an AE for administration. Staff acknowledged the PROC's concerns and informed the PROC that staff have followed up with AICPA and awaits a response regarding all four jurisdictions not presently assigned to an AE.

Mr. De Lyser requested that staff provide PROC members assigned to perform oversight of out-of-state AEs, all necessary supplemental documents including, previous and current AICPA Oversight Results and previously completed checklists to reference to appropriately evaluate and report on the AICPA peer review program and AEs.

D. Discussion and Possible Action Regarding the California Board of Accountancy Peer Review Program Survey and the Peer Review Report

Ms. Shev reported on this agenda item. She provided an update on the progress of the CBA Peer Review Program Survey (Survey). She noted that CalCPA had assisted with the promotion of the Survey, and concluded that the CBA received 347 total survey responses by the end of June 2018.

She explained that results from the Survey will be analyzed for inclusion in a report to the Legislative in December 2018. She proceeded to describe findings from the Survey and highlighted items to be included in the report such as peer review-related statistics, information on the PROC, and a narrative regarding discipline on substandard peer reviews.

IV. Closing Business.

A. Public Comments for Items Not on the Agenda.

None.

B. Agenda Items for Future Peer Review Oversight Committee Meetings.

Staff recorded agenda items to discuss at future PROC meeting.

V. Adjournment.

Having no further business to conduct, Mr. De Lyser adjourned the meeting at 1:19 p.m. on Friday, August 17, 2018.

Jeffrey De Lyser, CPA, Chair

Siek Run, Enforcement Analyst, prepared the PROC meeting minutes. If you have any questions, please call (916) 561-4366.



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CBA Item XII.B.2.
January 17, 2019

Discussion and Possible Ratification of Staff Responses to the National Association of State Boards of Accountancy's Focus Questions

Presented by: Rebecca Reed, Board Relations Analyst

Purpose of the Item

The purpose of this agenda item is to present the California Board of Accountancy's (CBA) responses to the National Association of State Boards of Accountancy (NASBA) Regional Director's Focus Questions.

Consumer Protection Objectives

NASBA assists the CBA with achieving its mission to protect consumers by creating a forum for state boards of accountancy to discuss relevant issues, ideas, and opinions, which creates consistency and uniformity amongst state boards of accountancy.

Action(s) Needed

No specific action is required on this agenda item, unless the CBA would like additional information provided to NASBA on the questions.

Background

Staff have been informed that the Focus Questions are used to help NASBA Regional Directors stay apprised of each state's policies and procedures and to see where improvements or adjustments might be made. The eight regional directors review the states' answers and then present their findings to NASBA.

Comments

The responses to the NASBA Focus Questions (**Attachment**) were prepared by staff from the Enforcement, Licensing, and Administration Divisions. Due to the date that the focus questions were due, staff provided NASBA with the answers to the focus questions on January 7, 2019.

Fiscal/Economic Impact Considerations

There are no fiscal/economic impact considerations.

Discussion and Possible Ratification of Staff Responses to the National Association of State Boards of Accountancy's Focus Questions

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Recommendation

Staff do not have a recommendation on this agenda item.

Attachment

NASBA Focus Questions

FOCUS QUESTIONS

Attachment

November 2018 NASBA REGIONAL DIRECTORS' FOCUS QUESTIONS

Name of the person submitting form on behalf of the Board of Accountancy:

Aaron Bone

Jurisdiction State:

California

Email address of person submitting form on behalf of the Board of Accountancy:

aaron.bone@cba.ca.gov

Phone:

(916) 561-1792

1. (a) Does your Board specify what courses qualify for the 150 hour requirement beyond the basic requirements in the UAA Model Rules?

- No.
- Yes.

Give Details Below.

Candidates must complete the specified requirements listed below:

- 24 semester units of accounting courses
- 24 semester units of business-related courses
- 20 semester units of accounting study
- 10 semester units of ethics study (3 semester units of which must be in a course devoted specifically to accounting ethics or accountants' professional responsibilities)

The remaining units may be completed in any subject area to fulfill the remainder of the 150 semester unit total. This is in accordance with California Business and Professions Code section 5093.

(b) Has your Board been asked to provide more specificity and, if so, how did your Board respond? If yes, please explain below.

- No.
- Yes.

FOCUS QUESTIONS

November 2018 NASBA REGIONAL DIRECTORS' FOCUS QUESTIONS

2. (a) What process does your Board have for granting hardship exceptions for meeting CPE requirements?

In accordance with the California Board of Accountancy (CBA) Regulations section 90, the CBA may grant up to six months for an extension or exemption from completing the continuing education (CE) requirements for the following:

- Reasons of health, certified by a medical doctor, which prevent compliance by the licensee;
- Service of the licensee on extended active duty with the Armed Forces of the United States;
- Other good cause.

The request may be made on the [CE Extension/Exemption Request Form](#) and submitted directly to the CBA office with the license renewal application, CE Reporting Worksheet, and license renewal fee prior to your license expiration date in order to maintain uninterrupted practice rights.

- (b) Approximately how frequently are these requested?

There are typically between 15-30 CE Extension/Exemption requests received per month, which is less than one percent of the monthly renewals received.

3. (a) Does your Board have the ability to influence the selection of Board members?

- No.
- Yes.

- (b) If yes, what have you done to increase the diversity of the membership of your Board?

4. What is happening in your jurisdiction that is important for other State Boards and NASBA to know about?

PEER REVIEWER POPULATION

The CBA and its Peer Review Oversight Committee (PROC) are evaluating the sufficiency of the American Institute of CPAs (AICPA) peer reviewer population.

Peer review is an important component of the CBA's mission to protect consumers. A decrease in the peer reviewer population in California could have potential adverse effects on the California peer review program and consumers.

FOCUS QUESTIONS

November 2018 NASBA REGIONAL DIRECTORS' FOCUS QUESTIONS

Over the past year plus, the CBA and PROC have sent multiple communications seeking to better understand the peer reviewer population, requesting data related to California peer reviewers including:

- Number of individuals performing peer reviews
- Number of peer reviews performed by each peer reviewer
- Number of peer reviewers performing peer reviews of specialized industries
- Number of peer reviews performed by peer reviewers of specialized industries
- Number of individuals added to the peer reviewer population over the past year
- Number of individuals who ceased performing peer reviews over the last year
- Number of individuals intending to cease performing peer reviews over the next three years

The data received raise concern over the peer reviewer population's ability to perform the necessary number of peer reviews in California. For example, the data shows the following:

- Sixty-seven percent of the peer reviews were completed by 20 California reviewers, and further 31 percent were completed by four California reviewers
- Thirty-two percent of the total number of peer reviews with must-select engagements were completed by two California reviewers
- The ratio of enrolled accounting firms to active peer reviews nationally was 14.65 to, while in California the ratio was 30.25 to 1 (as of 2016)
- During a survey conducted by the AICPA in 2014, nearly half of the peer reviews were performed by reviewers 61 years of age or older, and of those individuals, approximately 60 percent intended to retire before 2020

As peer review continues to evolve, especially in light of the new benchmark model adopted by the AICPA for its administering entities and with smaller administering entities discontinuing administering peer reviews, an unknown impact could occur with the peer reviewer population.

As peer review is a condition for accounting firms' license renewals, thus their ability to continue to practice and provide services to their clients, ensuring a sufficient and diverse pool of peer reviewers is critical to the success of peer review.

FOCUS QUESTIONS

November 2018 NASBA REGIONAL DIRECTORS' FOCUS QUESTIONS

Over the next year, the CBA and PROC will continue to make peer reviewer population a significant topic of evaluation as it relates to peer review. The CBA is continuing to work with the AICPA and California Society of CPAs to take steps to have a sufficient peer reviewer population.

ONLINE CREDIT CARD PAYMENT SYSTEM

As of early December, the California Board of Accountancy released its online license renewal payment portal. Providing this alternative payment method is easier and faster for licensees and reduces the timeframe for receiving a renewed license!

LEGISLATION

Legislation was signed into law in September 2018 (Senate Bill 795) to make permanent the CBA's mobility program. This program allows qualified, out-of-state CPAs to practice in California without providing notice or paying a fee to the CBA. For guidance on the requirements of this program, please contact (916) 561-1704 or pracprivinfo@cba.ca.gov.

5. Can NASBA be of any assistance to your Board at this time?

- No.
- Yes. Please explain below.

OUTREACH and COMMUNICATIONS

The CBA looks forward to continue working with Thomas Kenny and his team to make improvements to the CBA's communication and outreach program.

6. NASBA's Board of Directors would appreciate as much input on the above questions as possible. How were the responses shown above compiled? Please check all that apply.

- Input only from Board Chair.
- Input only from Executive Director.
- Input only from Board Chair and Executive Director.
- Input from all Board Members and Executive Director.
- Input from some Board Members and Executive Director.
- Input from all Board Members.
- Input from some Board Members.
- Other (please explain).