



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



**CALIFORNIA BOARD OF ACCOUNTANCY (CBA)  
 PUBLIC MEETING NOTICE FOR THE, ENFORCEMENT PROGRAM OVERSIGHT  
 COMMITTEE (EPOC), LEGISLATIVE COMMITTEE (LC), COMMITTEE ON  
 PROFESSIONAL CONDUCT (CPC), AND CBA MEETINGS**

**DATE:** Thursday, March 21, 2013

**COMMITTEE MEETING (EPOC)**

**TIME:** 9:30 a.m.

**COMMITTEE MEETING (LC)**

**TIME:** 10:00 a.m.

**COMMITTEE MEETING (CPC)**

**TIME:** 10:30 a.m.

**CBA MEETING**

**TIME:** 1:00 p.m. to 5:00 p.m.

**DATE:** Friday, March 22, 2013

**CBA MEETING**

**TIME:** 9:00 a.m. to 12:00 p.m.

**PLACE: Marriott Costa Mesa**  
**500 Anton Blvd.**  
**Costa Mesa, CA 92101**  
**Telephone: (714) 957-1100**  
**Fax: (714) 966-8495**

Enclosed for your information is a copy of the agendas for the EPOC, LC, CPC and CBA meetings on March 21-22, 2013. For further information regarding these meetings, please contact:

Kari O'Connor, Board Relations Analyst  
 (916) 561-1716 or [kari.o'connor@cba.ca.gov](mailto:kari.o'connor@cba.ca.gov)  
 California Board of Accountancy  
 2000 Evergreen Street, Suite 250  
 Sacramento, CA 95815

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

**The next CBA meeting is scheduled for May 23-24, 2013.**

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 Kari O'Connor at (916) 561-1718, or email [kari.o'connor@cba.ca.gov](mailto:kari.o'connor@cba.ca.gov), or send a written request to the CBA Office at 2000 Evergreen Street, Ste. 250, Sacramento, CA 95815. Providing your request is 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)  
 ENFORCEMENT PROGRAM OVERSIGHT COMMITTEE (EPOC)**

**EPOC MEETING  
 AGENDA  
 Thursday, March 21, 2013  
 9:30 a.m.**

**Marriott Costa Mesa  
 500 Anton Blvd.  
 Costa Mesa, CA 92101  
 Telephone: (714) 957-1100  
 Fax: (714) 966-8495**

	<b><u>CBA Item #</u></b>
Roll Call and Call to Order ( <b>Alicia Berhow, Chair</b> ).	
I. Approve Minutes of the January 24, 2013 EPOC Meeting ( <b>Alicia Berhow, Chair</b> ).	X.D.
II. Further Discussion Regarding Adding a Model Petition for Reinstatement Decision Checklist to the CBA Disciplinary Guidelines ( <b>Rafael Ixta, Enforcement Chief</b> ).	IX.A.2.
III. Discussion and Possible Action to Approve the Conceptual Revisions to the Manual of Disciplinary Guidelines and Model Disciplinary Orders ( <b>Rafael Ixta</b> ).	IX.A.3.
IV. Public Comments.*	
V. Agenda Topics for Next Meeting.	
Adjournment	

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

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

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



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

**LC MEETING  
 AGENDA**

**Thursday, March 21, 2013  
 10:00 a.m.**

**Marriott Costa Mesa  
 500 Anton Blvd.  
 Costa Mesa, CA 92626  
 Telephone: (714) 957-1100  
 Fax: (714) 966-8495**

- |  | <u><b>CBA Item #</b></u> |
|--|--------------------------|
| Roll Call and Call to Order ( <b>Larry Kaplan, Chair</b> ).  |                          |
| I. Approve Minutes of the January 24, 2013 LC Meeting  | X.C.                     |
| II. Update Regarding CBA Approved 2013 Legislative Proposal for Removing Specified Citation and Fine Information from the CBA Website ( <b>Andrew Breece, CBA Staff</b> ).   | IX.C.2.                  |
| III. Consideration of Positions on Newly Introduced Legislation ( <b>Andrew Breece</b> ).  | IX.C.3.a-c               |
| A. AB 186 – Professions and Vocations: military spouses: temporary licenses.   |                          |
| B. AB 291 – California Sunset Review.  |                          |
| C. Urgency Omnibus Bill.   |                          |
| IV. Report on 2013 Legislation Being Monitored by CBA:<br>AB 12, AB 186, AB 258, AB 291, AB 292, AB 376, AB 393,<br>AB 555, AB 653, AB 771, AB 772, AB 827, AB 866, AB 887,<br>AB 894, AB 1013, AB 1017, AB 1057, AB 1114, AB 1219, SB 176,<br>SB 207, SB 417, SB 532, SB 690, and SB 742. ( <b>Andrew Breece</b> ). | IX.C.4.                  |
| V. Additional Legislation Impacting the CBA Identified by Staff After the Posting of the Meeting Notice ( <b>Andrew Breece</b> ).  |                          |

VI. Public Comments.

VII. Agenda Items for Next Meeting.

Adjournment

Action may be taken on any item on the agenda. The time and order of agenda items are subject to change at the discretion of the LC Chair and may be taken out of order.

In accordance with the Bagley-Keene Open Meetings Act, all meetings of the CBA are open to the public.

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



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

**CPC MEETING  
 AGENDA  
 Thursday, March 21, 2013  
 10:30 a.m.**

**Marriott Costa Mesa  
 500 Anton Blvd.  
 Costa Mesa, CA 92626  
 Telephone: (714) 957-1100  
 Fax: (714) 966-8495**

- |  | <b><u>CBA Item #</u></b> |
|--|--------------------------|
| Roll Call and Call to Order ( <b>Michael Savoy, Chair</b> ).   |                          |
| I. Approve Minutes of the January 24, 2013 CPC Meeting   | X.B.                     |
| II. Discussion and Possible Action on a Legislative Proposal to Amend Section 5096(e) Requiring Notification to the CBA of Pending Criminal Charges for the Practice Privilege Set to Take Effect on July 1, 2013 ( <b>Rafael Ixta, Enforcement Chief</b> ). | IX.B.2.                  |
| III. Public Comments.*   |                          |
| IV. Agenda Items for Next Meeting.   |                          |
| Adjournment  |                          |

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

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

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



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

**CBA MEETING**

**AMENDED AGENDA**

*(See Closed Session Item VII.B.)*

**Thursday, March 21, 2013**  
**1:00 p.m. – 5:00 p.m.**

**Friday, March 22, 2013**  
**9:00 a.m. – 12:00 p.m.**

**Marriott Costa Mesa**  
**500 Anton Blvd.**  
**Costa Mesa, CA 92626**  
**Telephone: (714) 957-1100**  
**Fax: (714) 966-8495**

**Important Notice to the Public**

All times indicated, other than those identified as “time certain”, are approximate and subject to change. Agenda items may be discussed and action taken out of order at the discretion of the CBA President. Agenda items scheduled for a particular day may be moved to an earlier day to facilitate the CBA’s business.

- 1:00 p.m.                      Roll Call and Call to Order (**Leslie LaManna, President**).
- I. Report of the President (**Leslie LaManna**).
- A. Report of the DCA Director (**DCA Representative**).
- B. Educational Presentation – Role of CBA Legal Counsel (**Kristy Shellans/Carl Sonne**).
- C. Proposed 2014 CBA Meeting Dates (**Kari O’Connor, CBA Staff**).
- 1:30 p.m.                      II. Report of the Vice President (**Michael Savoy**).

- A. Recommendations for Appointment(s)/Reappointment(s) to the Enforcement Advisory Committee (EAC).
  - B. Recommendations for Appointment(s)/Reappointment(s) to the Qualifications Committee (QC).
  - C. Recommendations for Appointment(s)/Reappointment(s) to the Peer Review Oversight Committee (PROC).
- 1:40-1:50 p.m. III. Report of the Secretary/Treasurer (**K.T. Leung**).
- A. Discussion of Governor's Budget.
  - B. FY 2012-2013 Mid-Year Financial Statement.
- 1:50-2:05 p.m. IV. Report of the Executive Officer (EO) (**Patti Bowers**).
- A. Update on Staffing.
  - B. Update on 2013 CBA Meeting Locations.
  - C. Update on CBA 2013-2015 Communications and Outreach Plan (Written Report Only).
  - D. Discussion Regarding Informing California Licensees of Mobility and Licensure Requirements for States Outside of California and Informing Out-of-State Licensees About California's New Practice Privilege Provisions (**Dominic Franzella**).
- 2:05-2:15 p.m.. V. Report of the Licensing Chief (**Dominic Franzella**).
- A. Report on Licensing Division Activity.
- 2:15-2:30 p.m.. VI. Report of the Enforcement Chief (**Rafael Ixta**).
- A. Enforcement Activity Report.
- 2:30-5:00 p.m. VII. Closed Session.
- A. Pursuant to Government Code Section 11126(c)(3), the CBA Will Convene Into Closed Session to Deliberate on Disciplinary Matters (Stipulations, Default Decisions, Proposed Decisions, and a Decision After Non-Adoption).

B. Pursuant to Government Code Section 11126(e), the CBA Will Meet In Closed Session to Receive Advice from Counsel on Litigation (*David Greenberg v. Leslie LaManna, et al., Orange County Superior Court, Case No. 30-2013-00635372-CU-NP-CJC.*)

March 22, 2013

VIII. Regulations.

9:00 a.m.

- A. Discussion and Possible Action to Adopt a Finding of Emergency and Proposed Text at Title 16, California Code of Regulations (CCR) Sections 5.5, 18, 19, 20, 21, 22, 26, 36.1, and 98 – Practice Privilege.
- B. Discussion and Possible Action to Adopt or Amend Previously Proposed Text at Title 16, CCR Sections 15, 15.1, 15.2, 15.3, 15.4, 70, 71, and 87.1, and Adopt New Article 2.5 Regarding Retired Status.
- C. Update on Rulemaking Regarding Section 70 – Fees.

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

IX. Committee and Task Force Reports.

- A. Enforcement Program Oversight Committee (EPOC) (**Alicia Berhow, Chair**).
  - 1. Report of the March 21, 2013 EPOC Meeting.
  - 2. Further Discussion Regarding Adding a Model Petition for Reinstatement Decision Checklist to the CBA Disciplinary Guidelines.
  - 3. Discussion and Possible Action to Approve the Conceptual Revisions to the Manual of Disciplinary Guidelines and Model Disciplinary Orders.
- B. Committee on Professional Conduct (CPC) (**Michael Savoy, Chair**).
  - 1. Report of the March 21, 2013 CPC Meeting.
  - 2. Discussion and Possible Action on a Legislative Proposal to Amend Section 5096(e) Requiring Notification to the CBA of Pending Criminal Charges for the Practice Privilege Set to Take Effect on July 1, 2013.
- C. Legislative Committee (LC) (**Larry Kaplan, Chair**).
  - 1. Report of the March 21, 2013 LC Meeting.

2. Update Regarding CBA Approved 2013 Legislative Proposal for Removing Specified Citation and Fine Information from the CBA Website.
3. Consideration of Positions on Newly Introduced Legislation.
  - a. AB 186 – Professions and Vocations: military spouses: temporary licenses.
  - b. AB 291 – California Sunset Review.
  - c. Urgency Omnibus Bill.
4. Report on 2013 Legislation Being Monitored by CBA: AB 12, AB 186, AB 258, AB 291, AB 292, AB 376, AB 393, AB 555, AB 653, AB 771, AB 772, AB 827, AB 866, AB 887, AB 894, AB 1013, AB 1017, AB 1057, AB 1114, AB 1219, SB 176, SB 207, SB 417, SB 532, SB 690, and SB 742
5. Additional Legislation Impacting the CBA Identified by Staff After the Posting of the Meeting Notice.

D. Peer Review Oversight Committee (PROC) (**Nancy Corrigan, Chair**).

1. Report of the January 25, 2013 AICPA Peer Review Board Meeting.
2. Report of the February 22, 2013 PROC Meeting.
3. 2012 PROC Annual Report.

E. Enforcement Advisory Committee (EAC) (**Cheryl Gerhardt, Chair**).

Report of the January 31, 2013 EAC Meeting.

F. Qualifications Committee (QC) (**Maurice Eckley, Chair**).

No Report.

11:00-11:15 a.m. X. Acceptance of Minutes

- A. Draft Minutes of the January 24-25, 2013 CBA Meeting.
- B. Minutes of the January 24, 2013 CPC Meeting.

- C. Minutes of the January 24, 2013 LC Meeting.
- D. Minutes of the January 24, 2013 EPOC Meeting.
- E. Minutes of the December 4, 2012 PROC Meeting.
- F. Minutes of the December 12, 2012 EAC Meeting.
- G. Minutes of the October 24, 2012 QC Meeting.

11:15-11:30 a.m.

- XI. Other Business.
  - A. American Institute of Certified Public Accountants (AICPA).
  - B. National Association of State Boards of Accountancy (NASBA).
    - 1. Update on NASBA Committees.
      - a. Accountancy Licensee Database Task Force  
**(Patti Bowers)**.
      - b. Board Relevance & Effectiveness Committee  
**(Marshal Oldman)**.
    - 2. NASBA Focus Question Responses **(Kari O'Connor)**.

11:30 a.m.-12:00 p.m.

- XII. Closing Business.
  - A. Public Comments.\*
  - B. Agenda Items for Future CBA Meetings.
  - C. Press Release Focus **(Deanne Pearce, Assistant EO)**.  
Recent Press Releases.

12:00 p.m. XIII. Adjournment.

Action may be taken on any item on the agenda. All times indicated, other than those identified as "time certain", are approximate and subject to change. Agenda items may be discussed and action taken out of order at the discretion of the CBA President. Agenda items scheduled for a particular day may be moved to an earlier day to facilitate the CBA's business.

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

\*Government Code section 11125.7 provides the opportunity for the public to address each agenda item during discussion or consideration by the CBA prior to the CBA taking any action on said item. Members of the public will be provided appropriate opportunities to comment on any issue before the CBA, but the CBA President may, at his or her discretion, apportion available time among those who wish to speak. Individuals may appear before the CBA to discuss items not on the agenda; however, the CBA can neither discuss nor take official action on these items at the time of the same meeting (Government Code Sections 11125, 11125.7(a)).



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**CBA Item I.B.**  
March 21-22, 2013

## **Educational Presentation – Role of CBA Legal Counsel**

### **Presented by:**

Kristy Shellans, Senior Legal Counsel, Department of Consumer Affairs  
Carl W. Sonne, Deputy Attorney General, Office of the Attorney General

**Date:** March 1, 2013

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### **Purpose of the Item**

The purpose of this agenda item is to provide California Board of Accountancy (CBA) members with an overview of the role of Legal Counsel assigned to the CBA.

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

No specific action is required on this agenda item.

### **Background**

None.

### **Comments**

The CBA has two resources for legal guidance in its mandate to regulate the practice of public accountancy. Specifically, the CBA has an assigned legal counsel from the Department of Consumer Affairs (DCA) and a liaison from the Office of the Attorney General. Provided below is a summary of the roles of both of CBA's Legal Counsel.

#### **Role of the Department of Consumer Affairs Legal Counsel**

The DCA Legal Office serves as in-house counsel for the CBA. Its attorneys regularly attend and provide legal advice at meetings held by the CBA as well as legal analysis and opinions on laws, issues, and proposed legislation relevant to the DCA and CBA, including the regulatory licensing laws of the Business and Professions Code, conflict of interest laws, and the rulemaking process. It also provides advice on the Open Meetings Act, the Public Records Act, the Information Practices Act, and other California Government Code sections.

The CBA's assigned legal counsel, Kristy Shellans, attends all CBA meetings and makes presentations on various matters discussed during closed session. Additional information regarding Ms. Shellans role at board meetings is identified on Page 4 of **Attachment 1**. Ms. Shellan's duty statement is provided (**Attachment 2**), detailing all duties she may be expected to provide.

## **Educational Presentation – Role of CBA Legal Counsel**

Page 2 of 2

### **Role of the Department of Justice, Office of the Attorney General, Deputy Attorneys General**

The Attorney General represents the people of California in civil and criminal matters before all courts in the state and federal judicial system. Specific to the CBA, the Office of the Attorney General's **Licensing Section** counsel represents the CBA in both administrative and trial court proceedings to deny, revoke or suspend licenses in cases brought against applicants, certified public accountants, public accountants, accountancy partnerships and accountancy corporations.

The Deputy Attorney General Liaison to the CBA is Carl W. Sonne. Mr. Sonne attends all board meetings, represents the people of California during various hearings, and serves as a resource during specific cases that are deliberated on during closed session.

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

None.

### **Recommendation**

None.

### **Attachments**

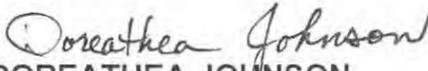
1. Board Meeting Protocols
2. DCA Position Duty Statement, Attorney III



## MEMORANDUM

DATE: October 7, 2010

TO: Executive Officers  
Board Presidents/Chairs

FROM:   
DOREATHEA JOHNSON  
Deputy Director  
Legal Affairs

SUBJECT: Board Meeting Protocols

### Three Duties for Board Meetings

1. Give adequate notice of meetings that will be held and agenda items.
2. Conduct meetings in open session.
3. Provide the public an opportunity to comment.

### First Duty

#### Adequate Notice of Meetings and Agenda Items

1. Timely – Law requires 10 days notice to those on a mailing list and posting notice and agenda on your website.
2. Specific Notice – Detailed, itemized agenda, identifying all items of business to be conducted at the meeting.
  - Items not on agenda cannot be discussed nor can they be acted on.
  - Can't discuss items under the heading of "New or Old Business" unless they are specifically identified.
  - Test for Specific Notice --Is an item specific enough for a member of the public to reasonably ascertain the nature of the business to occur at the meeting?

## Second Duty Conduct Meetings

### Open Session

General rule: Meetings must be conducted in Open Session and all discussion and actions must take place in the public, unless specifically authorized by law to go into closed session, with regard to that item of business.

Vote in public – Votes must be publically taken. Secret votes or votes by proxy are not permitted.

### Closed Session

Business statutorily authorized to be conducted in closed session:

- Disciplinary matters;
- Preparing, approving or grading examinations;
- Pending litigation;
- Matters affecting personal privacy;
- Executive officer appointment, employment or dismissal.

Once in closed session, you can only discuss those matters that were identified as closed session on your agenda.

## Third Duty Public Comment At The Meeting

### General Rule

Must allow public comment on each open session agenda item.

Suggested script to be read at the beginning of the meeting:

*The Board Chair will allow public comment on agenda items, as those items are taken up by the Board, during the meeting. Under the Open Meetings Act, the Board may not take any action on items raised by public comment that are not on the Agenda, other than to decide whether to schedule that item for a future meeting.*

*If any person desires to address the Board, it will be appreciated if he or she will stand or come forward and give his or her name, and if he or she represents an organization, the name of such organization, so that we will have a record of all those who appear. Please note that a person wishing to provide comment is not*

*required to identify him or herself when making public comment, but it is appreciated.*

*In order to allow the Board sufficient time to conduct its scheduled business, public comment will be limited to \_\_\_ minutes. Please make your comments focused and relevant to the duties of the Board. It is not necessary to repeat statements or views of a previous speaker, it is sufficient to state that you agree. Written statements should be summarized and submitted to the Board. They should not be read.*

*If as chairperson/president, I forget to ask for public comment on an agenda item, it is not because I intend to limit comment but just because I forgot. So in that situation, please raise your hand and I will recognize you.*

Suggested script to be used for each item on the agenda:

1. Call the Agenda Item
2. Committee Presents the agenda item
3. Ask for a motion
4. Ask for a second, unless the motion is made by the committee (second is not needed)
5. Ask for board discussion.
6. Ask if there is public comment. [You may reverse the order of these 2.]
7. Ask if there is further board discussion
8. Repeat the Motion
9. Take the vote

Suggested script for public comment on items not on the agenda:

The board values input from the public as part of its consumer protection mission. It invites and welcomes public comment during this section of the agenda. However, board members cannot engage in dialogue with those who testify during this section of the agenda due to constraints imposed on the board and its members by law. The law prohibits the board from substantively discussing or voting on any matter brought up during public comment. A member of the public who would like the board to discuss a general topic not related to a specific case involving one of its licensees can ask the board to consider placing the issue on the board's agenda for a future meeting.

If you have an application or disciplinary charges pending before the board, we ask that you not discuss the details of your case or pending complaint since the board members will be the "judges" and by law are not permitted to receive evidence or information that is not part of the administrative record in the case.

Disruptive persons:

The public has the right to express its disapproval, and may sometimes make emotional presentations. It is the board's duty and obligation to allow that public comment. Since the purpose of the meeting is for the agency to conduct its business, commenters shouldn't be permitted to thwart that purpose and may be

removed from the meeting if disruptive behavior continues after a request that it stop.

Suggested script to use when there is a disruptive person:

*Under the Open Meetings Act (Government Code Section 11126.5), if you continue in this manner, I will ask you to leave the meeting and if you do not leave the meeting, you will be removed. Accordingly, I am asking you to discontinue your disruptive conduct so that all participants can be heard in an orderly fashion.*

**Miscellaneous**

Wording of Motions

- Motions must be clearly worded.
- The test: Could a reasonable person reading the motion understand what the board meant to accomplish?
- Chair should restate the motion before the discussion and just before the vote is taken

Improper Disclosure of Information

- Improper for information received during closed session to be publicly disclosed without authorization of the body as a whole.

Role of the Attorney

The attorney's role during board meetings is to advise the agency of its obligations and authority under the law when it appears that the agency may be deviating from it, e.g. Open Meetings Act, quorum requirements, practice acts, regulations. In some cases, it may be necessary for the attorney to assist the agency in identifying an issue, framing a motion that accurately reflects the agency's deliberations and intent or seeking clarification from a speaker or board member.

When a problem is identified, the attorney is expected to assist the board in developing a lawful alternative method of accomplishing the board's goal.

It is not the attorney's responsibility or role to chair the meetings or direct the discussion. And the attorney should refrain from doing so even if requested to take on that role.

**Department of Consumer Affairs**

Position Duty Statement

HR-041 (new 5/04)

<b>Classification Title</b>	<b>Board/Bureau/Division</b>
<b>Attorney III</b>	
<b>Working Title</b>	<b>Office/Unit/Section / Geographic Location</b> <b>Legal Affairs / Sacramento</b>
<b>Position Number</b>	<b>Effective Date</b>

Under the direction of the Deputy Director, Legal Affairs Division, this attorney provides professional legal services to the Department of Consumer Affairs, the Director of the Department of Consumer Affairs, the department's boards, bureaus and programs, other units in the department, and other state agencies, when requested, on the most complex and sensitive kinds of issues, and with broad discretion and independence, and a minimum of supervision. Liaison with and assistance to the Attorney General's Office with respect to court cases and other matters the Department is represented in by the Attorney General's Office. The services provided by this attorney may consist of any or all of the following:

A. SPECIFIC ACTIVITIES

**70 %** General Legal Services. Provides general legal services to the department, the director, the department's boards, bureaus and programs, other units in the department, and other state agencies, on matters such as the following:

- Provides representation and legal services, including legal memoranda, regulations, legislation, personnel management, contract review, training and law enforcement, when requested.
- Assists in designing and carrying out projects and activities that enhance the ability of the department and its constituent agencies and personnel to carry out their legislative functions, when requested.
- Conducts research and provides memoranda on consumer and regulatory issues when requested.
- Assists other personnel within the division and department, when requested, in implementing the service and advocacy provisions Consumer Affairs Act.
- Assists other attorneys in the division on matters in which the attorney has or develops a special expertise.

- 10%** Advocacy - This attorney provides legal advocacy of one or more of the following kinds, when requested:
- Legislative Activities - Analyzes and develop proposals for legislation; researches, investigates and reports on issues before the Legislature; writes and delivers testimony; and performs other appropriate legislative services.
  - Consumer Assistance - Responds to marketplace problems and improve service to consumers by projects that directly affect the marketplace, as by addressing advertising law violations, and preparing information for the news media.
  - Administrative Advocacy - Prepares statements for submission to, appears before or otherwise represents the interests of consumers before state and federal administrative agencies on issues that affect the interests of consumers.
  - Amicus Services - Assists courts by filing "friend-of-the-court" memoranda and briefs on issues that affect the interests of consumers.
  - Court Action - Maintains, or intervenes in, when requested, court actions affecting the interests of consumers.
- 10%** Education - This attorney assists in educating consumer complaint handlers, board members, board, bureau and program staff, attorneys, judges, and others upon whom consumers rely, including:
- Seminars for consumer complaint handlers, departmental investigators and other specialized staff.
  - Educational programs for practicing attorneys, judges and other court and law enforcement personnel.
  - Research and writing of research reports, fact sheets and other published materials.
- 5%** Professional Development - This attorney devotes some time to his or her own professional development, including:
- Reading of current literature.
  - Attendance at educational programs.
  - Preparing for and conducting education programs.
  - Participation in activities of the bar.
  - Liaison with other relevant organizations.

**5%** Administration - This attorney devotes some time to matters of purely administrative nature, including:

- Meeting with the Deputy Director for Legal Affairs and staff.
- Reports of activities.
- Maintenance of time records.
- Maintenance of files.
- Acting as a lead for interns.
- Acting as lead for other staff members.

B. Supervision Received

The Attorney III is directly supervised by the Deputy Director, Legal Affairs Division, but may receive assignments from the Supervising Attorney or Attorney III (Lead) for DCA.

C. Supervision Exercised

None.

D. Administrative Responsibility

None.

E. Personal Contacts

The Attorney III has frequent contact with professional and support staff in the Division, the Chief Counsel, Executive Staff, board/bureau staff, the Legislative and Regulatory Review Division, the Communications and Education Division, the Consumer Relations and Outreach Division, the Division of Investigation, private attorneys, district attorneys, the Attorney General's Office, other government agencies, media representatives, and organizations such as the California District Attorneys Association, the State Bar of California and the California Consumer Affairs Association. Many of these contacts are sensitive, and may also be confidential under the attorney-client and work product privileges.

F. Actions And Consequences

Failure to perform these duties adequately could result in inefficient operation of the unit (and to some extent, the division), and could also result in provision of inaccurate or incomplete advice or assistance, with the possibility that recipients of these services might take positions or implement policies that are not advantageous or are not adequately supported.

G. Functional Requirements

The incumbent works in an office setting in the Legal Affairs suite, with artificial light and temperature control. The ability to use a personal computer is essential. The position requires bending and stooping to retrieve files; occasional light lifting, up to 10 – 15 lbs.

H. Other Information

**Licensing Requirement:** Incumbent must maintain active membership in the California State Bar.

Incumbent must be able to travel to board meetings throughout the state.

**I have read and understand the duties listed above and I can perform these duties with or without reasonable accommodation.** (If you believe reasonable accommodation is necessary, discuss your concerns with the hiring supervisor. If unsure of a need for reasonable accommodation, inform the hiring supervisor, who will discuss your concerns with the Health & Safety analyst.)

---

Employee Signature Date

**I have discussed the duties of this position with and have provided a copy of this duty statement to the employee named above.**

---

Supervisor Signature Date



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**CBA Item I.C.**  
March 21-22, 2013

### **Proposed 2014 CBA Meeting Dates**

**Presented by:** Kari O'Connor, Board Relations Analyst

**Date:** February 15, 2013

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

The purpose of this agenda item is to provide California Board of Accountancy (CBA) members with proposed meeting dates for 2014. **Attached** is a 2014 meeting dates/locations calendar for reference.

#### **Action Needed**

Members may choose to adopt or modify the 2014 CBA meeting dates.

#### **Background**

None.

#### **Comments**

The proposed 2014 CBA meeting dates are identified below.

- January 23-24, 2014                      Southern California
- March 20-21, 2014                        Northern California
- May 22-23, 2014                          Southern California
- July 24, 2014                                Northern California
- September 25-26, 2014                  Southern California
- November 20-21, 2014                  Northern California

Special meeting dates on legislation may be scheduled on an as-needed basis. These meetings will most likely occur in late August or early September 2014.

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

This item does not have a fiscal/economic impact

#### **Recommendation**

None.

#### **Attachment**

2014 Meeting Dates/Locations Calendar

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

**JANUARY 2014**

S	M	T	W	Th	F	S
			1	2	3	4
5	6	7	8	9	10	11
12	13	14	15	16	17	18
19	20	21	22	23 SC	24 SC	25
26	27	28	29	30	31	

**FEBRUARY 2014**

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

**MARCH 2014**

S	M	T	W	Th	F	S
						1
2	3	4	5	6	7	8
9	10	11	12	13	14	15
16	17	18	19	20 NC	21 NC	22
23	24	25	26	27	28	29
30	31					

**APRIL 2014**

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

**MAY 2014**

S	M	T	W	Th	F	S
				1	2	3
4	5	6	7	8	9	10
11	12	13	14	15	16	17
18	19	20	21	22 SC	23 SC	24
25	26	27	28	29	30	31

**JUNE 2014**

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

**JULY 2014**

S	M	T	W	Th	F	S
		1	2	3	4	5
6	7	8	9	10	11	12
13	14	15	16	17	18	19
20	21	22	23	24 NC	25	26
27	28	29	30	31		

**AUGUST 2014**

S	M	T	W	Th	F	S
					1	2
3	4	5	6	7	8	9
10	11	12	13	14	15	16
17	18	19	20	21	22	23
24	25	26	27	28	29	30
31						

**SEPTEMBER 2014**

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

**OCTOBER 2014**

S	M	T	W	Th	F	S
			1	2	3	4
5	6	7	8	9	10	11
12	13	14	15	16	17	18
19	20	21	22	23	24	25
26	27	28	29	30	31	

**NOVEMBER 2014**

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

**DECEMBER 2014**

S	M	T	W	Th	F	S
	1	2	3	4	5	6
7	8	9	10	11	12	13
14	15	16	17	18	19	20
21	22	23	24	25	26	27
28	29	30	31			

**GENERAL LOCATION**

NC-NORTHERN CALIFORNIA

SC-SOUTHERN CALIFORNIA



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**CBA Item II.A.**  
March 21-22, 2013

## **Recommendations For Appointments/Reappointments to the Enforcement Advisory Committee (EAC)**

**Presented by:** Michael Savoy, Vice President

**Date:** February 15, 2013

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### **Purpose of the Item**

The purpose of this agenda item is to recommend that William (Bill) Donnelly, CPA (**Attachment 1**) be appointed as a member to the California Board of Accountancy's (CBA) Enforcement Advisory Committee (EAC).

### **Action Needed**

It is requested that the CBA adopt the recommendation.

### **Background**

The EAC assists the CBA in an advisory capacity with enforcement activities. The committee reviews closed investigation files, offers technical guidance on open investigations, and participates in investigative hearings. The committee also considers, formulates, and proposes policies and procedures related to the CBA Enforcement Program.

### **Comments**

For all appointments to a committee, I work with the current chair to discuss knowledge and skills to ensure that the appointment(s) will contribute to the committee's function and enable it to carry out its mandated activities.

I also confer with the Executive Officer to verify that the potential appointees have met the appropriate requirements for license renewal, including continuing education requirements and peer review (if subject). A check is also made to ensure there are no pending enforcement actions.

Prior to making a decision to recommend Mr. Donnelly as a member of the EAC, I performed all the steps previously mentioned. Additionally, I reviewed his professional work experience to ensure that the committee has a sufficient variety of expertise to carry out its mandated activities. A matrix identifying the present members and areas of expertise is included as **Attachment 2**.

### **Fiscal/Economic Impact**

This item does not have a fiscal/economic impact.

## **Recommendations For Appointments/Reappointments to the Enforcement Advisory Committee (EAC)**

Page 2

### **Recommendation**

Based on the information above, and in consultation with Cheryl Gerhardt, Chair of the EAC, I recommend that Mr. Donnelly be appointed to the EAC.

### **Attachments**

1. Curriculum Vitae of William (Bill) Donnelly, CPA
2. Skill Matrix



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**CBA Item II.B.**  
March 21-22, 2013

## **Recommendations For Appointment(s)/Reappointment(s) to the Qualifications Committee (QC)**

**Presented by:** Michael Savoy, Vice President

**Date:** February 28, 2013

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### **Purpose of the Item**

The purpose of this agenda item is to recommend that Brian Cates, CPA (**Attachment 1**) be reappointed to the California Board of Accountancy (CBA) Qualifications Committee (QC).

### **Action Needed**

It is requested that the CBA adopt the recommendation.

### **Background**

The QC assists the CBA in its licensure activities by reviewing the experience of applicants for licensure and making recommendations to the CBA. This responsibility includes conducting work paper reviews, with the applicant or the employer present, to verify that the responses provided are reflective of the requisite experience for licensure.

### **Comments**

For all appointments to a committee, I work with the current chair to discuss knowledge and skills to ensure that the appointment(s) will contribute to the committee's function and enable it to carry out its mandated activities.

I also confer with the CBA's Executive Officer to verify that the potential appointees have met the appropriate requirements for license renewal, including continuing education requirements and peer review (if subject). A check is also made to ensure there are no pending enforcement actions.

For current members who are being reappointed, I review prior attendance records and review the evaluations that are completed annually by the present chair of the committee. The evaluation requests feedback in the areas of interpersonal skills, communications, leadership, attendance, preparedness, technical, and participation. Prior to making a decision to recommend Mr. Cates for reappointment to the QC, I performed all the steps previously mentioned. I additionally reviewed his professional work experience to ensure that the committee has a sufficient variety of expertise to

## **Recommendations For Appointment(s)/Reappointment(s) to the Qualifications Committee**

Page 2

carry out its mandated activities. A matrix identifying the present members and areas of expertise is included as **Attachment 2**.

I believe Mr. Cates has exhibited a high level of professionalism during the performance of his duties and has demonstrated the skills and knowledge to serve on the QC, which will allow the QC to assist the CBA with its Licensure Program.

### **Fiscal/Economic Impact**

This item does not have a fiscal/economic impact.

### **Recommendation**

I recommend, in consultation with Maurice Eckley, CPA and Chair of the QC, the reappointment of Brian Cates, CPA.

### **Attachments**

1. Brian Cates Curriculum Vitae
2. Skill Matrix



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**CBA Item II.C.**  
March 21-22, 2013

## **Recommendations For Appointments/Reappointments to the Peer Review Oversight Committee (PROC)**

**Presented by:** Michael Savoy, Vice President

**Date:** February 26, 2013

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### **Purpose of the Item**

The purpose of this agenda item is to recommend that Jeffrey De Lyser (**Attachment 1**) be appointed as a member to the Peer Review Oversight Committee (PROC).

### **Action 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 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**

Prior to making a decision to recommend Mr. De Lyser for appointment to the PROC, I took steps in both evaluating Mr. De Lyser to determine whether his skills and experience would fit the needs of the PROC. Additionally, since Mr. De Lyser presently serves as a member on the Enforcement Advisory Committee (EAC), I evaluated whether his dual participation on two CBA committees would be a conflict.

I consulted with both the Chair of the PROC, Nancy Corrigan, as well as the CBA Executive Officer, Patti Bowers, to discuss Mr. De Lyser's qualifications and participation with the CBA. Ms. Corrigan interviewed Mr. De Lyser and after a review of his experience, believed his appointment would benefit the PROC.

As it relates to Mr. De Lyser's dual participation on both the EAC and PROC, there is no conflict with any statutory or regulatory provision, nor any CBA policy regarding member appointments. Mr. De Lyser has confirmed the additional time commitment of serving on two committees will not pose a problem for him.

### **Fiscal/Economic Impact**

**Recommendations For Appointments/Reappointments to the Peer Review  
Oversight Committee (PROC)**

Page 2

This item does not have a fiscal/economic impact.

**Recommendation**

Based on the information above, and in consultation with PROC Chair Nancy Corrigan, I recommend that Mr. Jeffrey De Lyser be appointed to the PROC.

**Attachment**

Curriculum Vitae of Jeffrey K. De Lyser, CPA



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**CBA Item III.B.**  
March 21-22, 2013

## **Fiscal Year 2012-13 Mid-Year Financial Report**

**Presented by:** K.T. Leung, CPA, Secretary/Treasurer

**Date:** March 21-22, 2013

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### **Purpose of the Item**

The purpose of this agenda item is to provide California Board of Accountancy (CBA) members the mid-year financial report, which gives an overview of year-end receipts, expenditures, and the status of the Accountancy Fund Reserve.

### **Action Needed**

No specific action is required on this agenda item.

### **Background**

CBA Financial reports are prepared quarterly (October, January, April, and August) and are included in CBA meeting materials. These reports provide an overview of receipts, expenditures, and the status of the Accountancy Fund Reserve.

### **Comments**

None.

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

None.

### **Recommendation**

Staff has no recommendation on this item.

### **Attachments**

1. Mid-Year Financial Report – Narrative
2. Mid-Year Financial Report – Statistics
3. CBA Budget Allocation History
4. CBA Total Revenue and Expenditures

**CALIFORNIA BOARD OF ACCOUNTANCY**  
**FISCAL YEAR 2012-13**  
**MID-YEAR FINANCIAL REPORT - NARRATIVE**  
 (for period of 7/01/12 through 12/31/12)



**DISCUSSION AND ANALYSIS OF FINANCIAL REPORT**

**BUDGET**

The mid-year financial report reflects slight budget changes in the current year. Net total expenditures were reduced approximately \$150,000 to \$11,138,377. An approximate \$315,000 reduction in Personal Services expenditure authority was implemented and not reflected in the first quarter report. This decrease resulted from the Governor’s Personal Leave Program (PLP) reducing state employee wages. Additionally, a retirement and health benefits adjustment included an increase of approximately \$165,000.

The Department of Consumer Affairs (DCA) has released a preliminary CBA operations budget for Fiscal Year (FY) 2013-14 in the amount of \$11,574,000. This is an increase of over \$400,000 from the FY 2012-13 budget of \$11,138,377. Included is a budget increase of \$300,000 which will be going towards the BreEZe Project. This project replaces several older databases serving all Licensing and Enforcement divisions within DCA purview. The DCA advises that it will be taking on the responsibility of providing administrative services and oversight to an additional four programs. Consequently, departmental pro-rata expenditures for the CBA will decrease as a result of the total pro-rata allocations being spread among the additional programs. Staff benefit costs will also increase by approximately \$200,000. The table below highlights the major changes for the current and budget year.

<b>Fiscal Year</b>	<b>Notable Expenditure Amount Changes</b>	<b>Comments</b>
2012-13	-\$315,000	Mandatory PLP - Salary Reduction
	+\$165,000	Retirement and Health Benefits
2013-14	-\$150,000	Statewide and Departmental Pro-Rata
	+\$300,000	BreEZe Project
	+\$200,000	Retirement and Health Benefits

**REVENUES/TOTAL RECEIPTS**

During the first half of FY 2012-13 the CBA collected approximately \$5.1 million in total receipts.

Licensing revenue reflects an approximate five percent reduction compared to the same time period last year. It is anticipated that as the CBA nears the new 2014 licensure changes, licensing applications and revenue will increase approaching prior fiscal year levels.

Penalties and fines reflect an increase in enforcement citations due to peer review reporting deficiencies. It is expected that the overall volume of citations will decrease as licensees become more familiar with the requirements and the reporting date is tied to the renewal date.

**CALIFORNIA BOARD OF ACCOUNTANCY  
FISCAL YEAR 2012-13  
MID-YEAR FINANCIAL REPORT  
PAGE 2**

**EXPENDITURES**

Personal Services expenditures reflect an eight percent increase from the same period last year resulting from the lifting of the Governor's hiring freeze in January 2012, and the CBA's success in recruiting and filling Enforcement Division vacancies.

Facilities costs appear to be significantly higher than last fiscal year. This is because last year's mid-year financial report only reflected half a year of security guard costs. This year's mid-year totals already reflect full year costs.

The external subject matter line item continues to show an approximate 90 percent decrease resulting from the retiring or elimination of existing Enforcement Division contracts. Two remaining contracts will expire at the end of FY 2012-13.

Enforcement litigation costs have decreased by approximately 43 percent. During the first six months of FY 2011-12, the CBA was working to resolve several high profile cases in which the Attorney General billings were almost double typical costs. Consequently, the figures reflected this fiscal year are significantly lower than last year.

**RESERVES**

The CBA ended the second quarter with 16.4 months in Reserve (MIR). Total expenditures slightly exceed revenue by about \$40,000. However approximately \$600,000 of cost recovery reimbursements have added to the Reserve. This type of income is variable and cannot be anticipated.

CALIFORNIA BOARD OF ACCOUNTANCY  
FISCAL YEAR 2012-13  
Mid-Year Financial Report  
(for period of 7/1/12 through 12/31/12)

ATTACHMENT 2

	FY 2012-13 Received/Expended 7/01/12 - 12/31/12 (6 months ) [8]	FY 2011-12 Received/Expended 7/01/11 - 12/31/11 (6 months ) [8]	% Change FY 2012-13 to FY 2011-12 (A:B)	FY 2012-13 Annual Governor's Budget 7/01/12 - 6/30/13 (12 months) [9]	FY 2012-13 Receipts/Expenditures Over/Under Budget (D:A)	FY 2012-13 Annual Projections (12 months) [10]
<b>RECEIPTS</b>						
<b>Revenues:</b>						
Renewals [1]	3,175,768	3,237,235	-1.9%	5,904,082	-46.2%	5,667,902
Examination Fees	1,381,874	1,491,740	-7.4%	3,013,691	-54.1%	3,098,901
Licensing Fees	450,450	472,700	-4.7%	955,900	-52.9%	900,000
Practice Privilege Fees	62,700	74,250	-15.6%	183,300	-65.8%	125,000
Miscellaneous [2]	26,764	28,813	-7.1%	57,084	-53.1%	44,106
Monetary Sanctions [3]	0	0	NA	0	NA	0
Penalties and Fines	54,000	9,403	474.3%	75,740	-28.7%	100,000
<b>Total Revenues</b>	<b>5,151,556</b>	<b>5,314,141</b>	<b>-3.1%</b>	<b>10,189,797</b>	<b>-49.4%</b>	<b>9,935,909</b>
<b>Interest</b>	<b>11,104</b>	<b>11,824</b>	<b>NA</b>	<b>0</b>	<b>NA</b>	<b>49,000</b>
<b>TOTAL NET RECEIPTS</b>	<b>5,162,660</b>	<b>5,325,965</b>	<b>-3.1%</b>	<b>10,189,797</b>	<b>-49.3%</b>	<b>9,984,909</b>
<b>EXPENDITURES:</b>						
<b>Personal Services:</b>						
Salaries & Wages	2,135,515	2,016,762	5.9%	4,296,285	-50.3%	4,298,230
Benefits	919,625	811,870	13.3%	1,989,903	-53.8%	1,839,250
<b>Total Personal Services:</b>	<b>3,055,140</b>	<b>2,828,632</b>	<b>8.0%</b>	<b>6,286,188</b>	<b>-51.4%</b>	<b>6,137,480</b>
<b>Operating Expenses:</b>						
Fingerprints	9,767	25,821	-62.2%	185,000	-94.7%	20,000
General Expense	57,155	61,707	-7.4%	191,868	-70.2%	137,172
Printing	53,486	52,576	1.7%	85,608	-37.5%	128,366
Communications	8,888	8,001	11.1%	48,614	-81.7%	28,000
Postage	39,225	36,699	6.9%	130,872	-70.0%	148,000
Travel: In State	49,560	50,188	-1.3%	132,886	-62.7%	145,000
Training	2,076	9,543	-78.2%	28,012	-92.6%	4,982
Facilities Operations	664,426	557,430	19.2%	613,818	8.2%	664,426
Consultant & Professional Services Int.	0	0	NA	3,708	-100.0%	3,708
Consultant & Professional Services Ext.	41,269	404,696	-89.8%	313,368	-86.8%	82,538
Departmental Services	638,940	582,460	9.7%	1,250,341	-48.9%	1,250,341
Consolidated Data Center	16,417	9,145	79.5%	41,846	-60.8%	39,401
Data Processing	4,189	10,058	-58.4%	71,103	-94.1%	10,054
Central Administrative Services	258,797	257,076	0.7%	517,594	-50.0%	517,594
Exams	61,800	136,600	-54.8%	0	NA	136,600
Enforcement	252,641	442,835	-42.9%	1,463,551	-82.7%	634,252 [11]
Minor Equipment	1,387	10,378	-86.6%	70,000	-98.0%	70,000
Major Equipment	0	0	NA	0	NA	0
<b>Total Operating Expenses:</b>	<b>2,160,023</b>	<b>2,655,213</b>	<b>-18.6%</b>	<b>5,148,189</b>	<b>-58.0%</b>	<b>4,020,434</b>
<b>TOTAL EXPENDITURES</b>	<b>5,215,163</b>	<b>5,483,845</b>	<b>-4.9%</b>	<b>11,434,377</b>	<b>-54.4%</b>	<b>10,157,914</b>
Less Scheduled Reimbursements	9,319	12,288	-24.2%	296,000	-96.9%	296,000
<b>TOTAL NET EXPENDITURES</b>	<b>5,205,844</b>	<b>5,471,557</b>	<b>-4.9%</b>	<b>11,138,377</b>	<b>-53.3%</b>	<b>9,861,914</b>
<b>RECEIPTS IN EXCESS OF EXPENSES</b>	<b>-43,184</b>	<b>-145,592</b>		<b>-948,580</b>		<b>122,995</b>
<b>PLUS COST RECOVERY</b>	<b>562,515</b>	<b>725,676</b>		<b>0</b>		<b>600,000</b>
<b>BEGINNING RESERVES JULY 1 [4]</b>	<b>15,123,000</b>	<b>14,346,000</b>		<b>15,123,000</b>		<b>15,123,000</b>
<b>GENERAL FUND LOAN 2011 [5]</b>	<b>0</b>	<b>-1,000,000</b>		<b>0</b>		<b>0</b>
<b>Total Resources</b>	<b>15,642,331</b>	<b>13,926,084</b>		<b>14,174,420</b>		<b>15,845,995</b>
<b>PROJECTED ENDING RESERVES</b>	<b>15,642,331</b>	<b>13,926,084</b>	<b>12.3%</b>	<b>14,174,420</b>		<b>15,845,995</b>
<b>GENERAL FUND LOAN 2002 [6]</b>	<b>(6,000,000)</b>					
<b>GENERAL FUND LOAN 2003 [6]</b>	<b>(270,000)</b>					
<b>GENERAL FUND LOAN 2008 [6]</b>	<b>(14,000,000)</b>					
<b>GENERAL FUND LOAN 2010 [6]</b>	<b>(10,000,000)</b>					
<b>GENERAL FUND LOAN 2011 [6]</b>	<b>(1,000,000)</b>					
<b>MONTHS IN RESERVE (MIR) [7]</b>	<b>16.4</b>	<b>14.6</b>		<b>15.3</b>		<b>16.6</b>

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**Footnotes:**

- [1] Includes biennial renewals, delinquent and prior year renewals, and initial licenses.
- [2] Includes miscellaneous services to the public, dishonored check fees, certification fees, duplicate licenses, name changes, over/short fees, suspended revenue, prior year adjustments, and unclaimed checks.
- [3] Enforcement monetary sanctions received as components of stipulated settlements and disciplinary orders approved by the CBA. These orders bring to a conclusion any accusations that had previously been filed by the Executive Officer, and are separate from fines or citations.
- [4] FY 2012-13 beginning reserve amount was taken from Analysis of Fund Condition statement, prepared by the Department of Consumer Affairs (DCA) Budget Office in December 2012.
- [5] A \$1 million loan to the General Fund was made last fiscal year.
- [6] Funds borrowed per California Government Code Section 16320, which indicates that the Budget Act is the authority for these loans. The "terms and conditions" of the loans, per the Budget Act are: "The transfer made by this item is a loan to the General Fund. This loan shall be repaid with interest calculated at the rate earned by the Pooled Money Investment Account at the time of the transfer." (Estimated at .389% for 2011, .515% for 2010, 2.78% for 2008, 1.64% for 2003 loan, and 2.64% for 2002). "It is the intent of the Legislature that repayment be made so as to ensure that the programs supported by this fund are not adversely affected by the loan through a reduction in service or an increase in fees." Outstanding General Fund loans total \$31,270,000.
- [7] Calculation: expenditure authority for FY 2012-13 (\$11,138,377) divided by twelve months equals monthly expenditure authority (\$928,198). Total ending reserves divided by monthly authority equals "Months in Reserve" (MIR).
- [8] Received/Expended amounts through July 1, 2011 for FY 2011-12 and December 31, 2011 for FY 2011-12 include encumbrances, and are from DCA Budget Reports.
- [9] Figures reflect projected revenues from FY 2012-13 Workload and Revenue Statistics, expenditures are from the FY 2012-13 DCA Budget Galley STONE and the DCA Fund Condition statement prepared 12/2012.
- [10] This column reflects CBA's annual revenue and expenditure projections for FY 2012-13 based on six months of actual data.
- [11] Annual expenditures projected for the Enforcement line item are based only on what the CBA has spent to date. No other factors are used in determining this projection. This estimate is not indicative of the number or type of enforcement cases the CBA anticipates being involved in or is currently investigating.

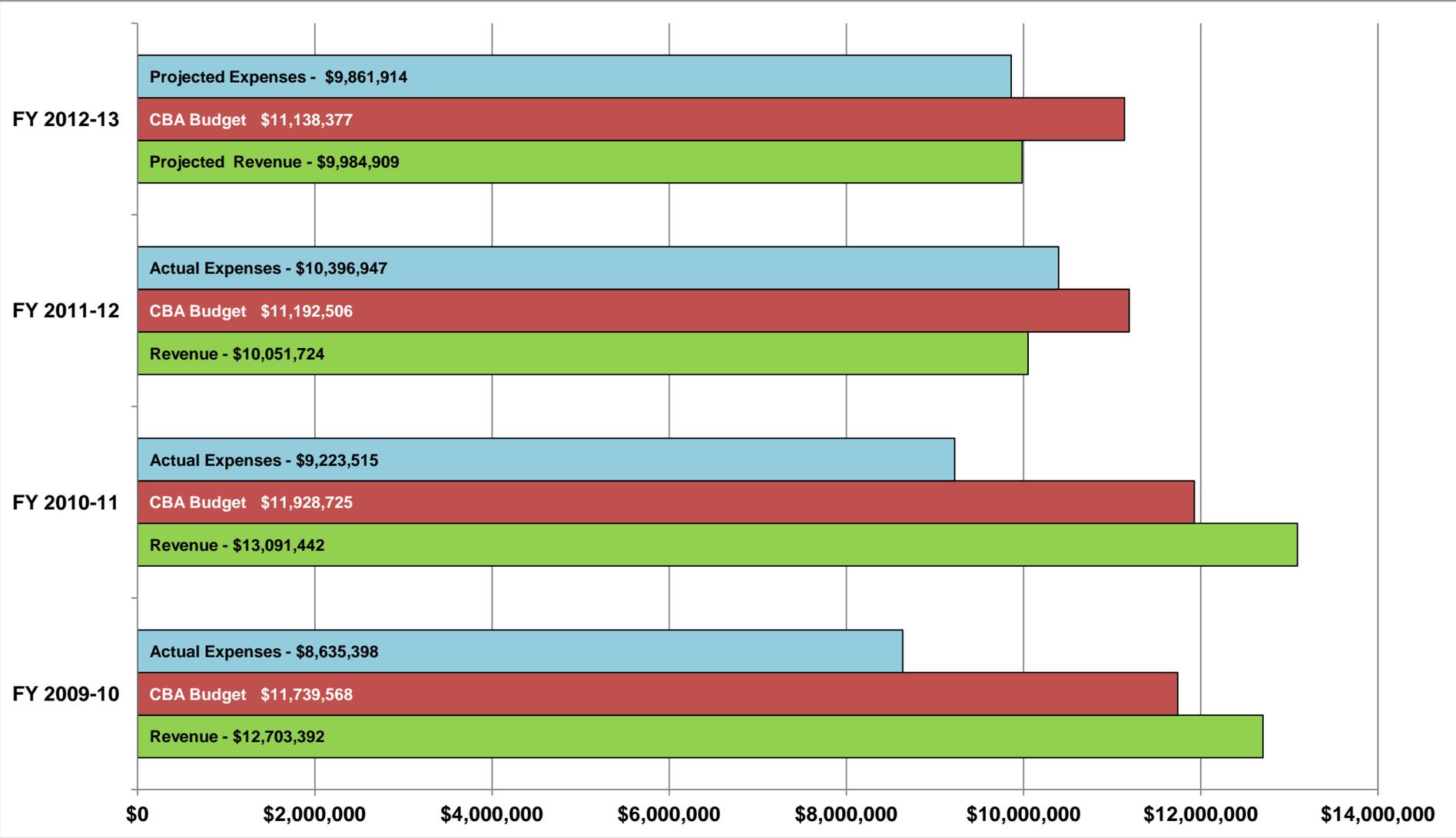
NOTE: CBA Financial Reports are prepared quarterly (October, January, April, and August) and included in CBA Meeting materials. These reports provide an overview of receipts, expenditures, and the status of the Accountancy Fund Reserve.

**CBA Budget Allocation History**  
(including reimbursements FM06)

<b>Year End FY 2012-13</b>	Total Budget Act	Practice Privilege	Exam	Initial Licensing	Licensing Administration	RCC	Enforcement	Administration	Executive	Board	
<b>\$ Budgeted</b>	<b>\$11,138,377</b>	210,426	866,598	1,300,985	605,291	1,155,907	4,462,554	2,000,197	417,059	119,360	
<b>\$ Spent*</b>	<b>\$5,215,163</b>	86,781	431,361	623,585	297,711	607,550	1,756,557	1,111,395	252,254	47,969	
<b>Authorized Positions<sup>1</sup></b>	<b>79.9</b>	1.4	6.0	12.0	5.0	11.0	22.5	19.0	3.0	0.0	
<sup>1</sup> The elimination of salary savings required by the Department of Finance in FY 2012-13, required the CBA to eliminate 3.6 authorized positions.											
<b>FY 2011-12</b>	Total Budget Act	Practice Privilege	Exam	Initial Licensing	Licensing Administration	RCC	Enforcement	Administration	Executive	Client Services	Board
<b>\$ Budgeted</b>	<b>\$11,192,506</b>	223,850	783,475	1,455,026	559,625	1,119,251	4,365,077	2,126,576	447,700	0.0	111,925
<b>\$ Spent*</b>	<b>\$10,396,947</b>	173,088	970,072	1,238,038	564,740	1,035,841	3,592,845	2,128,697	593,890	0.0	99,736
<b>Authorized Positions</b>	<b>83.5</b>	2.0	7.0	12.0	5.0	11.0	22.5	20.0	4.0	0.0	0.0
<b>FY 2010-11</b>	Total Budget Act	Practice Privilege	Exam	Initial Licensing	Licensing Administration	RCC	Enforcement	Administration	Executive	Client Services <sup>2</sup>	Board
<b>\$ Budgeted</b>	<b>\$11,928,725</b>	176,337	1,023,455	1,208,197	618,616	929,864	5,150,079	2,169,348	519,624	0	133,206
<b>\$ Spent</b>	<b>\$9,223,515</b>	140,127	883,475	1,230,379	530,717	980,654	2,743,474	2,118,158	478,714	0	117,816
<b>Authorized Positions</b>	<b>84.0</b>	2.0	9.0	15.0	5.0	8.0	20.0	21.0	4.0	0.0	0.0
<sup>2</sup> The Client Services Unit was closed in 2010 and staff were redirected to the Examination, Enforcement, and RCC units.											
<b>FY 2009-10</b>	Total Budget Act	Practice Privilege	Exam	Initial Licensing	Licensing Administration	RCC	Enforcement	Administration	Executive	Client Services	Board
<b>\$ Budgeted</b>	<b>\$11,739,568</b>	446,994	617,118	1,311,926	568,326	788,597	4,970,948	1,830,145	591,295	501,841	112,378
<b>\$ Spent</b>	<b>\$8,635,398</b>	301,775	665,369	1,122,477	517,342	805,498	2,601,959	1,564,363	469,070	409,554	177,991
<b>Authorized Positions</b>	<b>83.0</b>	5.0	6.0	15.0	5.0	7.0	17.0	19.0	4.0	5.0	0.0

\* Dollars spent through December 31, 2012.

# CBA Total Revenue and Expenditures





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**CBA Item IV.B.**  
March 21-22, 2013

### **Update on 2013 CBA Meeting Locations**

**Presented by:** Kari O'Connor, Board Analyst

**Date:** March 4, 2013

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

The purpose of this agenda item is to present the California Board of Accountancy (CBA) with an update on meeting locations for the remaining 2013 CBA meetings.

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

No action is needed.

#### **Background**

At the March 2012 CBA meeting, members approved the 2013 meeting calendar and locations.

As reported at the January 2013 CBA meeting, staff had difficulty locating a March meeting location in Northern California and as a result had to relocate the meeting to Southern California.

#### **Comments**

Following the January 2013 CBA meeting, staff, with assistance from the Department of Consumer Affairs, searched for possible meeting locations for the May CBA Meeting in the Sacramento and Bay Areas. Unfortunately, staff was unable to identify a location that could accommodate the CBA.

CBA staff has identified a Northern California location for the July 2013 CBA Meeting. Additionally, staff is working to secure a Northern California meeting location for the November CBA meeting. The May and September 2013 meetings will be held in Southern California. Updates will be provided to members as locations are secured.

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

None.

#### **Recommendation**

None.



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**CBA Item IV.C.**  
March 21-22, 2013

## **Update on CBA 2013-2015 Communications and Outreach Plan**

**Presented by:** Lauren Hersh, Information & Planning Manager

**Date:** March 5, 2013

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### **Purpose of the Item**

The purpose of this agenda item is to keep California Board of Accountancy (CBA) members informed of communications and outreach efforts and activities.

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

No specific action is required on this agenda item.

### **Background**

As requested by the CBA, staff is providing regular updates regarding the communications and outreach activities which have taken place since the last CBA meeting.

### **Comments**

#### **Social media**

We are currently in a period of growth, particularly on Facebook. At this writing, the CBA has nearly 2,000 fans on Facebook and more than 1,000 followers on Twitter. The CBA Facebook page continues to increase in the number of "engaged" users, who share our posts or interact with the CBA and one another regarding a post. Some of the most popular posts are consumer protection messages. Information regarding data security, identity theft, product safety recalls, as well as news of interest to the profession draw positive responses.

The single largest group is men in the 25-34 year old range, followed by women in the same age category. The 35-44 year old women and 18-24 year old men are about tied for the next largest group. Most of the CBA's Facebook fans are in the United States, but there are fans in 19 other countries, mostly representing the Middle East/North Africa, India and the Far East.

#### **UPDATE Publication**

The Winter 2013 edition of UPDATE posted to the CBA website and was distributed via E-News on February 27. The printed editions are expected to be mailed on or around March 30. Planning for the Spring edition is underway.

## Update on CBA 2013-2015 Communications and Outreach Plan

### Media Relations

In an effort to more effectively reach local press with news of enforcement actions, staff has created new local media contacts with local daily and weekly newspapers as well as newer local online news services, such as Patch.com. Press releases are being sent to the large daily newspapers as in the past, but staff is better able to target releases to specific communities using local outlets. As research into new local media continues, staff is compiling new contact lists.

<b>Press Releases</b>	<b>2011</b>	<b>2012</b>	<b>YTD</b>
Press advisories & topical news releases	19	19	4
Enforcement press releases	31	35	21
<b>Total</b>	<b>50</b>	<b>54</b>	<b>25</b>

### E-News

E-News subscriptions have increased by more than 400 since the last report. The table below indicates the number of subscribers by areas of interest, with many subscribers choosing more than one area of interest. The increases are reflected in the number of external subscribers and were evenly split between UPDATE, Statutory/Regulatory, and California Licensee.

<b>List Name</b>	<b>External</b>	<b>Internal</b>	<b>Total</b>
California Licensee	8,571	50	8,621
Consumer Interest	4,001	54	4,055
Examination Applicant	2,589	41	2,630
Licensing Applicant	3,080	45	3,125
Out-of-State Licensee	1,997	42	2,039
Statutory/Regulatory	6,902	58	6,960
CBA Meeting Info & Agenda Materials	3,154	36	3,190
UPDATE Publication	6,265	17	6,282
<b>Total subscriptions</b>	<b>36,559</b>	<b>343</b>	<b>36,902</b>

### Fiscal/Economic Impact Considerations

None.

### Recommendation

Staff has no recommendation on this item.



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**CBA Item IV.D.**  
March 21-22, 2013

**Discussion Regarding Informing California Licensees of Mobility and Licensure Requirements for States Outside of California and Informing Out-of-State Licensees About California's New Practice Privilege Provisions**

**Presented by:** Dominic Franzella, Licensing Chief  
**Date:** March 6, 2013

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**Purpose of the Item**

The purpose of this agenda item is to provide the California Board of Accountancy (CBA) with staff's initial plans for providing California and out-of-state licensees information related to initiating cross-border practice.

**Action(s) Needed**

While no specific action is required on this agenda item, staff value any feedback members have related to additional opportunities for getting this important information out to licensees.

**Background**

With the passage of Senate Bill (SB) 819 in 2009, which eliminated one of the CBA's pathways to licensure (Pathway 1) and expand the educational requirements for the remaining pathway (Pathway 2), the California Legislature took steps to ensure that California maintained its National Association of State Boards of Accountancy's (NASBA) designation as a "substantially equivalent" state. NASBA determines substantial equivalency nationally by evaluating states' examination, education, and experience requirements. Had California maintained both Pathway 1 and Pathway 2, NASBA indicated that California would no longer be deemed substantially equivalent. The loss of this designation would have greatly impacted California CPAs' ability to obtain practice rights in other states. Additionally, with the passage of SB 1405 in 2012, the Legislature significantly amended California's practice privilege provisions to bring them more in line with those found nationally.

**Comments**

While mobility, which all but Hawaii and the U.S. territories have adopted, has streamlined licensees' abilities for cross-border practice, there continues to exist various nuances from state to state that all CPAs must be cognizant of. To assist both California CPAs looking to practice in another state and out-of-state licensees looking to practice in California, staff have developed the below plan to provide pertinent information to licensees.

## **Discussion Regarding Informing California Licensees of Mobility and Licensure Requirements for States Outside of California and Informing Out-of-State Licensees About California's New Practice Privilege Provisions**

Page 2 of 2

### California CPAs

Staff plan on placing information on the CBA website specific to the steps licensees should take prior to initiating cross-border practice. Most importantly, this would direct CPAs to consult with the individual regulatory board in the state or states in which they intend on practicing, including determining if any services they will provide would require individual or firm licensure prior to beginning practice. At present, staff is considering two avenues to assist California CPAs with obtaining necessary information. First, staff will include an interactive map that will allow California licensees to click on a particular state and be quickly redirected to that state board of accountancy website. Second, staff will include a link to NASBA's CPA mobility website ([www.cpamobility.org](http://www.cpamobility.org)), which NASBA has designed as a one-stop-shop to get initial information on the mobility laws for each state.

Lastly, in an effort to highlight this important topic and take steps to ensuring California CPAs are informed about how to precede prior to initiating cross-border practice, for the Spring edition of UPDATE, staff will include an article emphasizing this issue.

### Out-of-State CPAs

Just like California CPAs should consult with the regulatory boards prior to beginning practice in another state, out-of-state CPAs should consult with the CBA prior to beginning practice in California. CPAs need to take this step to ensure they understand if they have certain reporting requirements (either pre- or post-practice) and whether certain services must be performed through an accounting firm registered by the CBA.

Presently, staff is preparing a handbook outlining the new practice privilege provisions. The handbook will include links to the forms should out-of-state CPAs have a reporting requirement, the out-of-state accounting firm registration form, and various frequently asked questions. Additionally, staff will also continue to provide information to NASBA so that it can circulate the information to the other state boards.

### Fiscal/Economic Impact Considerations

None.

### Recommendation

None.

**CALIFORNIA BOARD OF ACCOUNTANCY  
REPORT ON LICENSING DIVISION ACTIVITY  
December 2012 – February 2013**

CBA Item V.A.  
March 21-22, 2013

<b>EXAMINATION</b>	<b>December</b>	<b>January</b>	<b>February</b>
<b>CPA Examination Applications Received</b>			
First-Time Sitter	463	567	619
Repeat Sitter	2,135	1,256	1,212
<b>CPA Examination Applications Processed</b>			
First-Time Sitter	415	726	526
Repeat Sitter	1,804	1,630	891
<b>Processing Time Frames (Days)</b>			
First-Time Sitter	16	15	23
Repeat Sitter	5	8	8
<b>INITIAL LICENSING</b>			
<b>CPA Licensure Applications Received</b>			
CPA	312	428	266
Partnership	14	10	9
Corporation	19	28	9
Fictitious Name Permit (Registration)	29	10	9
<b>Processing Time Frames (Days)</b>			
CPA	25	31	24
Partnership	11	10	16
Corporation	11	10	16
Fictitious Name Permit (Registration)	11	10	16
<b>Applicants Licensed Under</b>			
Pathway 0	2	1	0
Pathway 1A	40	31	35
Pathway 1G	44	51	45
Pathway 2A	70	61	42
Pathway 2G	156	160	128

**CALIFORNIA BOARD OF ACCOUNTANCY  
REPORT ON LICENSING DIVISION ACTIVITY  
December 2012 – February 2013**

<b>RENEWAL AND CONTINUING COMPETENCY</b>	<b>December</b>	<b>January</b>	<b>February</b>
<b>Total Number of Licensees</b>			
CPA	86,088	86,351	86,228
PA	116	116	111
Partnership	1,426	1,424	1,433
Corporation	3,782	3,801	3,812
<b>Licenses Renewed</b>			
CPA	3,550	2,797	3,309
PA	3	2	4
Partnership	29	54	60
Corporation	90	96	158
<b>CE Worksheet Review</b>			
CPA/PA Applications Reviewed	2,478	2,342	2,502
Deficient Applications Identified	171	224	154
Compliance Responses Received <i>(Including Requests for Inactive Status)</i>	105	39	5
Enforcement Referrals	0	0	0
Outstanding Deficiencies <i>(Including Abandonment)</i>	66	185	149
<b>PRACTICE PRIVILEGE</b>			
<b>Notifications Received</b>			
Hardcopy	51	123	58
Electronic	206	307	189
<b>Disqualifying Conditions Received</b>			
Approved	1	3	1
Denied	0	0	0
Pending	1	1	0
<b>Practice Privilege Suspension Orders</b>			
Notice of Intent to Suspend	5	3	5
Administrative Suspension Order	0	1	2

**CALIFORNIA BOARD OF ACCOUNTANCY  
REPORT ON LICENSING DIVISION ACTIVITY  
December 2012 – February 2013**

**DIVISION ACTIVITIES**

- The Initial Licensing Unit recently hired a Staff Services Analyst and is currently recruiting to fill an Associate Governmental Program Analyst position.
- The License Renewal/Continuing Competency Unit has recently filled two Associate Governmental Program Analyst positions.
- The RCC Unit has implemented procedures for the military waiver status that became effective January 1, 2013.
- Beginning January 1, 2014 two significant changes will occur related to licensees' renewal reporting requirements – peer review reporting (anticipated Office of Administrative Law approval) and retroactive fingerprinting. To ensure licensees are fully aware of these forthcoming changes, the Licensing Division is actively engaged in developing various notification letters, updating informational materials, and revising the license renewal application.

**COMMITTEE NEWS**

**CPA Qualifications Committee (QC)**

The QC will meet on April 24, 2013 at the CBA Office in Sacramento, CA.

## California Board of Accountancy Enforcement Activity Report

As of February 15, 2013

### Complaints

The Enforcement Division received 2,622 complaints since July 1, 2012 and assigned 2,383 for investigation.

<b>1.1 – Complaints/Records of Convictions</b>	<b>FY 2010/11</b>	<b>FY 2011/12</b>	<b>YTD 02/15/13</b>
Received	854	1,911	2,622
<i>Internal</i>	387	1,433	2,376
<i>External</i>	467	478	246
Assigned for Investigation	601	1,626	2,383
Closed - No Action	232	294	247
Average Days from Intake to Closure or Assignment for Investigation	5	4	3
Pending	22	12	4
Average Age of Pending Complaints (days) <sup>1</sup>	5	16	4

<sup>1</sup> Represents data as of the end of the fiscal year, and as of February 15, 2013.

### Comments

- Of the 2,622 complaints received, approximately 1,800 related to failure to respond to CBA inquiry regarding submission of a Peer Review Reporting Form. The 1,800 complaints resulted in citations being issued in January and February 2013.
- The Average Days to Close or Assign for Investigation remains below previous years.
- At the January 2013 CBA meeting, Board members requested staff to provide a breakdown of the complaints received. In response to members' requests, staff have provided additional complaint details as follows:
  - Internal Complaints Received includes complaints received internally from the CBA Renewal Division, Licensing Division and other internal sources.
  - External Complaints Received includes complaints from the public, other licensees, societies/trade entities, other states, other government agencies and other sources.

Staff also made other minor changes to Table 1.1 to aid in the presentation of the data.

## Investigations

The CBA Enforcement Division has assigned 2,383 cases for investigation in the current fiscal year. Enforcement Staff has closed 2,515 investigations, and there are currently 309 cases assigned for investigation.

<b>2.1 – Investigations</b>	FY 2010/11	FY 2011/12	YTD 02/15/13
Assigned	601	1,626	2,383
<i>Internal</i>	272	1,264	2,220
<i>External</i>	329	362	163
Closed	464	1,525	2,515
Average Days to Close	130	85	69
Investigations Pending <sup>1</sup>	334	439	309
<i>&lt; 18 Months</i>	301	384	292
<i>18-24 Months</i>	21	26	13
<i>&gt; 24 Months</i>	12	29	4
Average Age of Open Cases (days) <sup>1</sup>	238	248	213
Median Age of Open Cases (days) <sup>1</sup>	157	164	182

<sup>1</sup> Represents data as of the end of the fiscal year, and as of February 15, 2013.

## Comments

- The 2,383 cases assigned for investigation includes approximately 1,800 Peer Review investigations. These 1,800 cases were closed in January and February due to the issuance of citations and fines.
- The Average Days to close has decreased for the fourth straight report, from 294 in September 2012, to 245 in November 2012, to 216 in December 2012, and is currently 69 days.
- The number of investigations pending for more than 24 months has decreased from six in the prior report to four.
- Of the four cases that have been open for more than 24 months:
  - Two investigative hearings (IH's) are scheduled. One in February 2013 and one in May 2013.
  - One investigative report is being finalized and should be concluded by the end of March 2013.
  - One case is pending; the respondent is ill and is not able to attend an IH due to doctor's orders.
- The Average Age of Open Cases in the above table is lower than the previous two fiscal years.

Chart 2.2 illustrates the percentage of total open cases by length of time. Ninety-nine percent of investigations have been open for less than 24 months; four percent of investigations have been open for 18 to 24 months, and one percent of investigations have been open for more than 24 months.

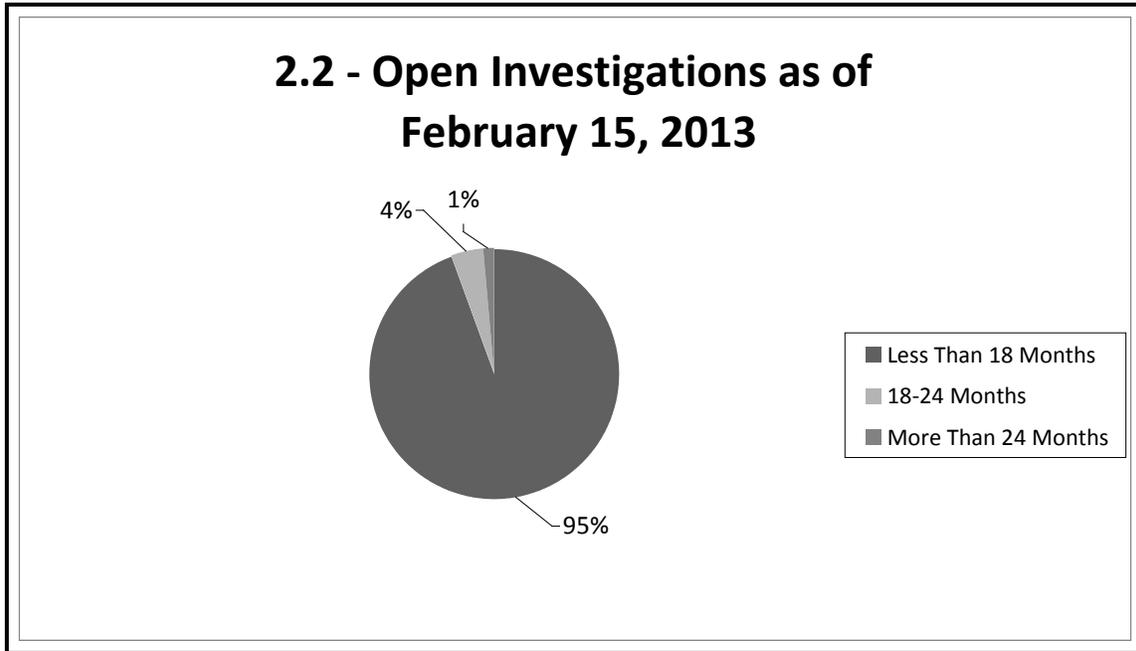
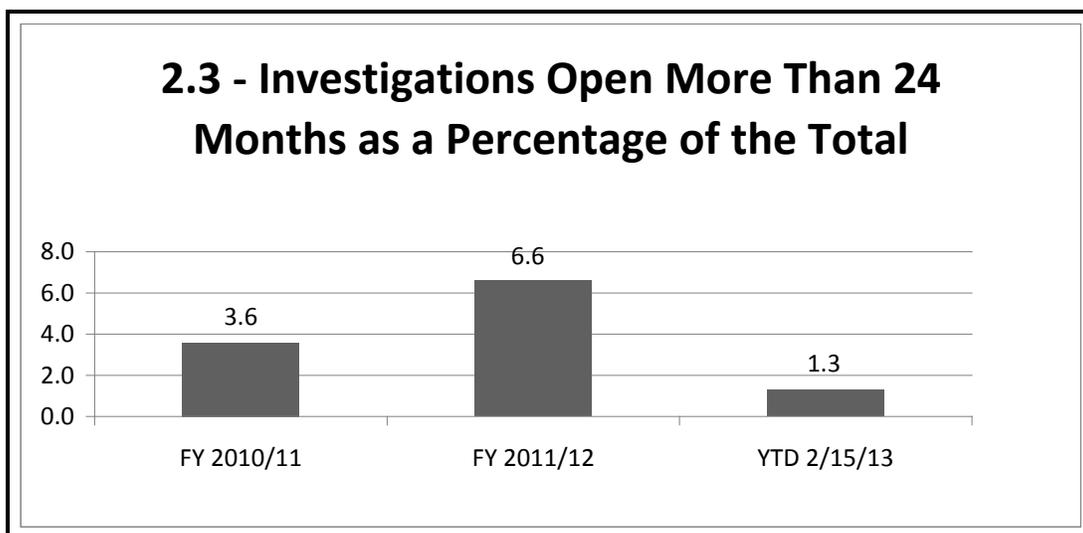


Chart 2.3 illustrates the case aging trend, comparing the current percentage of cases older than 24 months to the end of the previous two fiscal years. The chart shows the percentage of cases open for more than 24 months has decreased from 6.6 percent in the prior fiscal year to 1.3 percent.



## Discipline

As of February 15, 2013, the Enforcement Division has referred 45 complaints to the Attorney General's (AG) Office. There have been 29 accusations filed and 33 disciplinary actions adopted. Of the 33 actions adopted, 22 were Stipulated Settlements, one was a Proposed Decision and ten were Default Decisions. There are currently 61 cases pending at the AG, with three pending for more than 24 months.

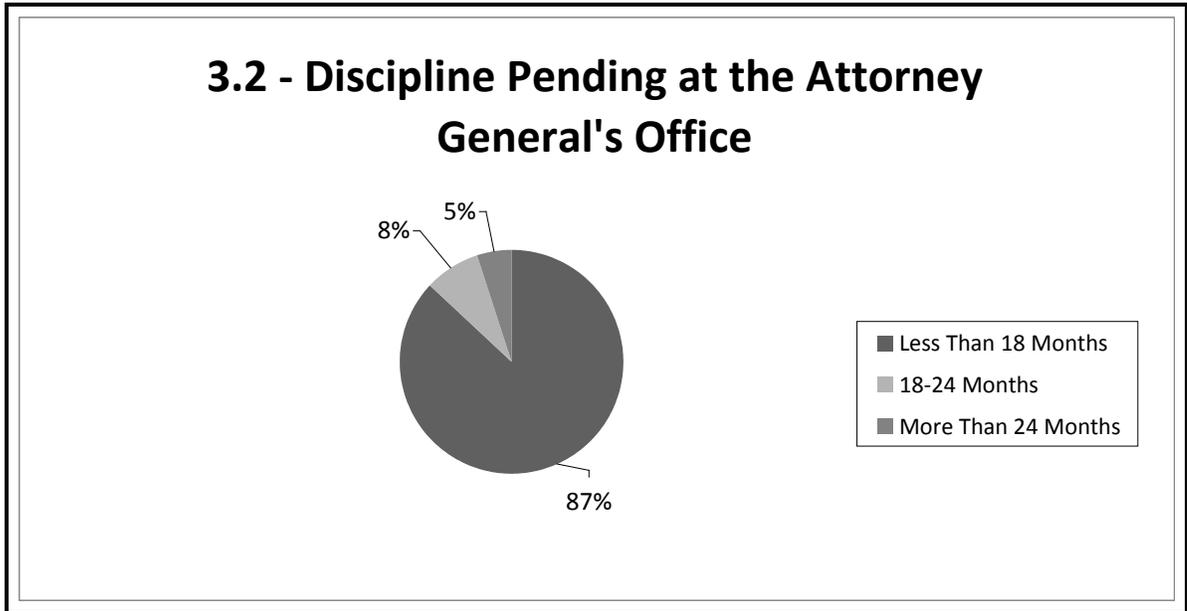
<b>3.1 - AG Referrals</b>	FY 2010/11	FY 2011/12	YTD 02/15/13
Referrals	24	50	45
Accusations Filed	20	37	29
Statements of Issues Filed	0	2	1
Petitions for Revocation of Probation Filed	2	3	2
Closed	22	26	33
<i>Via Stipulated Settlement</i>	12	19	22
<i>Via Proposed Decision</i>	6	3	1
<i>Via Default Decision</i>	4	4	10
Discipline Pending <sup>1</sup>	37	54	61
<i>&lt; 18 Months</i>	32	44	53
<i>18-24 Months</i>	2	3	5
<i>&gt; 24 Months</i>	3	7	3

<sup>1</sup> Represents data as of the end of the fiscal year, and as of February 15, 2013.

## Comments

- There are three cases that have been at the AG's Office for more than 24 months, which is the same as the previous report. Of the three that have been pending for more than 24 months:
  - One of the cases had a writ filed with the California Superior Court, and a hearing is pending.
  - One has an administrative hearing scheduled in May 2013, after the non-adoption of a Stipulated Settlement in November 2011.
  - A final case was presented to the CBA in November 2012, and the proposed decision was non-adopted. This matter will be heard by the CBA at the March 2013 meeting.

Chart 3.2 illustrates the number of cases pending at the AG's Office by percentage. Approximately 87 percent of all CBA cases at the AG's Office have been open less than 18 months, eight percent have been pending 18-24 months, and five percent have been pending more than 24 months.



## Citations and Fines

CBA Regulation 95 authorizes the CBA Executive Officer to issue a citation to licensees for violations of the Accountancy Act or CBA Regulations in lieu of formal disciplinary action. To date, 1,863 citations, with a total fine amount of \$495,550, have been issued by the Enforcement Division.

<b>4.1 – Citations</b>	FY 2010/11	FY 2011/12	YTD 02/15/13
Total Citations Issued	30	908	1,863
<i>Peer Review Citations Issued</i>	<i>N/A</i>	872	1,800
Total Fines Assessed	\$26,850	\$255,350	\$495,550
<i>Peer Review Fines Assessed</i>	<i>N/A</i>	\$217,850	\$450,000
Average number of days from receipt of a complaint to issuance of a citation	268	22	65
Top 3 Violations			
1:	Response to CBA Inquiry (Reg 52)	Response to CBA Inquiry (Reg 52)	Response to CBA Inquiry (Reg 52)
2:	CE Basic Requirements (Reg 87)	CE Basic Requirements (Reg 87)	CE Basic Requirements (Reg 87)
3:	Practice Without Permit (B&P 5050)	Name of Firm (B&P 5060)	Name of Firm (B&P 5060)

### Comments

- Of the 1,863 citations issued in the current fiscal year, 1,800 were issued for failure to respond to a peer review reporting requirement.
- Excluding peer review, in the current fiscal year 63 citations have been issued, for a total fine amount of \$45,550.
- The majority of the Peer Review Reporting Forms filed as a result of receiving a citation, indicate they are not subject to peer review.
- The “Capitol Beat” section of the California Society of Certified Public Accountants (CalCPA) March/April 2013 edition of the California CPA magazine will feature a Q & A with Enforcement Chief, Rafael Ixta. This joint outreach effort between CalCPA and the CBA will serve as an additional resource for licensees to comply with their Peer Review reporting requirement and avoid the issuance of a citation and fine.

## Probation Monitoring

Once the disciplinary process is complete, the matter is referred to a CBA Probation Monitor for tracking and compliance with the terms of probation. As of February 15, 2013, there were 59 licensees on probation. On January 31, 2013 staff met with four new probationers for an initial probation hearing in Los Angeles. The next probation meetings will be held in conjunction with the Enforcement Advisory Committee in May 2013.

## Peer Review

As of February 15, 2013, 51,110 Peer Review Reporting Forms have been submitted to the CBA. The reporting forms are categorized as follows:

5.1 - Peer Review						
License Ending In	Reporting Deadline	Peer Review Required	Peer Review Not Required	Not Applicable (Non-firms)	Total	Licensees Still Needing to Report
01-33	7/1/11	2,454	4,254	15,628	22,336	717
34-66	7/1/12	1,801	3,837	12,577	18,215	1,953
67-00	7/1/13	704	2,076	7,779	10,559	10,395
		4,959	10,167	35,984	51,110	13,065

### Correspondence to Licensees

In March 2013, Enforcement Staff will send approximately 10,000 reminder letters to licensees who are required to submit a Peer Review Reporting Form by July 1, 2013 but have not yet done so. The letter will emphasize the consequences of not responding to the letter.

### Citations Issued to Licensees that Failed to Respond To CBA

In January and February 2013, Enforcement Staff issued 1,800 citations to licensees who failed to respond to the CBA's requests for peer review information. Each citation included a \$250 administrative fine and an order of correction requiring the licensee to submit the Peer Review Reporting Form within thirty days. The breakdown of the citations is as follows:

Phase 1 CPAs/CORs/PARs with a delinquent license	310
Phase 2 CPAs	1,330
Phase 2 Corporations/Partnerships	160

## Performance Measures

As part of the Department of Consumer Affairs' (DCA) commitment to consumer protection and its ongoing efforts to better serve consumers and licensees, the DCA is improving its enforcement business function.

Table 6.1 displays a list of the performance measures that have been established by the DCA, the CBA target for each of these measures, and the results from the CBA's Performance Measures Report for the second quarter (October 1, 2012 – December 31, 2012).

<b>6.1 - DCA Performance Measure</b>	<b>Target</b>	<b>2<sup>nd</sup> Quarter Results</b>	<b>Comments</b>
Number of Complaints and Convictions Received	N/A	2,042	The increase in complaints received is due to the 1,800 complaints opened for failure to respond to the CBA inquiry regarding submission of Peer Review Reporting Form.
Average number of days to complete complaint intake	10 days	2 days	
Average number of days to complete closed cases not resulting in formal discipline	180 days	29 days	
Average number of days to complete investigations resulting in formal discipline	540 days	909 days	
Average number of days from the date a probation monitor is assigned to the date the monitor makes contact	5 days	5 days	
Average number of days from the time a violation is reported to the program to the time the probation monitor responds	15 days	N/A	CBA did not handle any probation violations this quarter.

### **Division Highlights and Future Considerations**

- The number of investigations open more than 24 months has decreased from 29 for the fiscal year ending June 30, 2012 to four for the current fiscal year as of February 15, 2013.
- The Enforcement Division is now recruiting for a Staff Services Manager I to supervise the non-technical investigations and committee support units, as Kathy Tejada is retiring at the end of March 2013.



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**CBA Item VIII.A.**  
March 21-22, 2013

**Discussion and Possible Action to Adopt a Finding of Emergency and Proposed Text at Title 16, California Code of Regulations (CCR) Sections 5.5, 18, 19, 20, 21, 22, 26, 36.1, and 98 – Practice Privilege**

**Presented by:** Matthew Stanley, Regulation Analyst  
**Date:** February 19, 2013

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**Purpose of the Item**

The purpose of this agenda item is to provide an opportunity for the California Board of Accountancy (CBA) to adopt a Finding of Emergency and regulations to implement practice privilege.

**Action(s) Needed**

Staff request that the CBA adopt the Finding of Emergency and Proposed Regulatory Language.

**Background**

At its January 2013 meeting, the CBA directed staff to proceed with preparing an emergency rulemaking for practice privilege. The emergency rulemaking process requires the CBA to adopt both the Finding of Emergency (**Attachment 1**) and Proposed Regulatory Language (**Attachment 2**), including all of the forms and documents incorporated by reference.

Once adopted by the CBA, the emergency rulemaking materials must be submitted to the Department of Consumer Affairs for review and then to the Office of Administrative Law (OAL) for final approval. Staff will request an operative date of July 1, 2013 to coincide with the effective date of the new practice privilege law. Once approved by OAL, the emergency regulations will be in effect for 180 days with the possibility of two 90-day re-adoptions for a total of almost one year.

During the time the emergency rulemaking is in effect, the CBA will be pursuing the same regulatory changes through the normal rulemaking process. This process of making emergency regulations permanent is called a certificate of compliance. It is anticipated that the public hearing on the certificate of compliance for practice privilege will be held at the July 2013 CBA meeting.

## **Discussion and Possible Action to Adopt a Finding of Emergency and Proposed Text at Title 16, California Code of Regulations (CCR) Sections 5.5, 18, 19, 20, 21, 22, 26, 36.1, and 98 – Practice Privilege**

Page 2 of 3

### **Comments**

The proposed regulatory language, including the forms incorporated by reference, is essentially the same as that which the CBA approved at its January 2013 meeting. The only changes made by staff to the language approved by the CBA include recommendations offered by legal counsel. These recommendations include minor and technical clarifying changes, as well as the inclusion of proposed Section 22 regarding the Intent to Administratively Suspend.

In addition, at the direction of the CBA, staff have removed the definition for “headquartered in California” from proposed Section 18.

The proposed language for Section 22 is nearly identical to current Section 35.1. This section allows the Executive Officer to send out a notice prior to issuing an Administrative Suspension Order. The notice is to provide the practice privilege holder with 30 days to declare why the practice privilege should not be administratively suspended.

The CBA is required by the new practice privilege law to adopt emergency regulations to implement the program on July 1, 2013. In order to meet this deadline, the Finding of Emergency and the Proposed Regulatory Language must be adopted at the March 2013 meeting. However, if the CBA wishes to make any final changes to the language, it is possible to do so prior to the adoption, but the changes must be specific and precisely worded.

#### **If no substantive changes are to be made:**

*Motion:* Direct staff to take all steps necessary to complete the emergency rulemaking process, including the filing of the final emergency rulemaking package with the Office of Administrative Law, authorize the Executive Officer to make any non-substantive changes to the proposed regulations, and adopt the Finding of Emergency and the Proposed Regulatory Language.

#### **If substantive changes are to be made:**

Specific changes to be made must be worded exactly as the CBA wants the regulation and Finding of Emergency to read and made as part of the motion.

*Motion:* Direct staff to take all steps necessary to complete the rulemaking process, including incorporating the exact changes to the language or Finding of Emergency as specified by the CBA; authorize the Executive Officer to make any non-substantive changes to the proposed regulations, and adopt the Finding of Emergency and Proposed Regulatory Language as amended.

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

While the majority of the fiscal impact is due to the removal of the practice privilege fee and the notification requirement through SB 1405 of 2012, the fiscal impact of the regulation itself is minimal resulting in an additional minor and absorbable workload for processing the self-reporting forms and firm registrations.

**Discussion and Possible Action to Adopt a Finding of Emergency and Proposed Text at Title 16, California Code of Regulations (CCR) Sections 5.5, 18, 19, 20, 21, 22, 26, 36.1, and 98 – Practice Privilege**  
Page 3 of 3

**Recommendation**

Staff recommend adopting the motion regarding no substantive changes to the proposal.

**Attachment**

- 1 – Finding of Emergency
- 2 – Proposed Regulatory Language with documents incorporated by reference



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**CBA Agenda Item VIII.A.  
Attachment 1**

## **FINDING OF EMERGENCY**

### **California Board of Accountancy Division 1 of Title 16**

The California Board of Accountancy (CBA) finds that an emergency exists. The regulations being adopted herewith by the CBA as emergency regulations ("the Emergency Regulations") are, by legislative mandate, necessary for the immediate preservation of the public peace, health and safety, and general welfare. Business and Professions Code Section 5096.9 requires the CBA to adopt emergency regulations to establish policies, guidelines, and procedures to initially implement the practice privilege program as it goes into effect on July 1, 2013.

Therefore, the CBA proposes these emergency regulations, which would establish policies, guidelines, procedures and definitions for implementing the practice privilege program that is mandated to go into effect July 1, 2013 by Senate Bill 1405 ("SB 1405" -- Stats 2012, ch. 411).

#### **AUTHORITY AND REFERENCE CITATION**

Authority cited: Sections 5010, 5018, 5096.9, and 5116 of the Business and Professions Code and Section 11400.20, Government Code. Reference: Sections 5018, 5035.3, 5070, 5082, 5087, 5093, 5095, 5096-5096.12, and 5116-5116.6, Business and Professions Code and Section 11425.50(e), Government Code.

#### **SPECIFIC FACTS DEMONSTRATING THE NEED FOR IMMEDIATE ACTION**

These Emergency Regulations are necessary to implement, interpret and make specific statutes enacted by SB 1405 that relate to the practice privilege program in Article 5.1 in Chapter 1 of Division 3 the Business and Professions Code (commencing with section 5096). These emergency regulations would establish procedures that will permit the CBA to: specify state substantial equivalency requirements for out-of-state licensed CPAs, create a registration process for out-of-state accounting firms, create an informal appeals process for administrative actions taken against practice privilege holders, and create forms to implement the various practice privilege holder notice requirements enacted by SB 1405. In Business and Professions Code Section 5096.9, the Legislature requires the Office of Administrative Law to consider the CBA adoption of these regulations pursuant to Section 5096.9 to be necessary for the immediate preservation of the public peace, health and safety, or general welfare.

## **INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW**

Legislation enacted in 2012 (Stats 2012, ch. 411 (SB 1405)) rewrote the CBA's practice privilege provisions (Article 5.1, Chapter 1, Division 3 of the Business and Professions Code). Current law requires individual out-of-state licensees who wish to practice in California to either obtain a California license or a California practice privilege (see Business and Professions Code sections 5050, 5096). Under current law, an out-of-state licensee can obtain a practice privilege by filing a notice with the CBA and paying a fee.

The new provisions, which go into effect on July 1, 2013, beginning at Section 5096 of the Business and Professions Code, allow individuals, whose principal place of business is outside of California, licensed in states that have licensing requirements substantially similar to California's to practice in California under a practice privilege conferred by operation of law without providing the notice or paying the fee. Individuals who wish to perform certain attest functions for companies headquartered in California must do so through a firm that is registered with the CBA.

An individual who acquires certain disqualifying conditions while exercising a practice privilege must immediately cease practice and notify the CBA which, after investigating, may grant permission to resume practice.

Individuals who acquired certain disqualifying conditions in the seven years prior to the date they wish to practice in California must notify the CBA prior to beginning practice in California. These individuals may only begin practicing in California with the permission of the CBA.

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. The Emergency Regulations would establish the rules, process and procedures necessary to implement the new law, including specifying how an out-of-state CPA's education, examination, and experience qualifications are "substantially equivalent" to California's eligibility requirements, rendering him or her eligible for the practice privilege.

The regulatory proposal is as follows:

### **1. Adopt Section 5.5 of Title 16 of the California Code of Regulations.**

This proposal would identify the states that the CBA has determined have education, examination, and experience requirements which are substantially equivalent to California's licensing requirements. For those individuals licensed by a state that is not on the list, the proposal establishes a process by which the individual's qualifications may be deemed substantially equivalent.

A list of states deemed "substantially equivalent" and processes for alternative methods for obtaining eligibility are necessary to specify who the CBA deems eligible for a practice privilege in California and to provide interested parties with an understanding of

what type of education, examination, and experience qualifications meet California's requirements as described in Section 5096 of the Business and Professions Code. A clear description of the U.S. States and qualifications deemed acceptable to the CBA enables the CBA to set minimum program eligibility requirements. In addition, Section 5096(a)(2) of the Business and Professions Code states that the CBA is to determine which states are substantially equivalent to California's qualifications.

## **2. Adopt Section 18 of Title 16 of the California Code of Regulations.**

This proposal repeals the current Article 3 title and creates a new Article 3 title "Practice Privileges (operative July 1, 2013)." It establishes the effective date of this new article as July 1, 2013 to coincide with the operative date of the new law.

This proposal sets forth two definitions that are needed to clarify certain terms used in the law. It defines "minor traffic violation," and "principle place of business." The definition for "minor traffic violation" is consistent with CBA Regulation Section 37.5. The definition for "principle place of business" is consistent with the Uniform Accountancy Act (6<sup>th</sup> Edition, August 2011), Section 3 – Definitions. The Uniform Accountancy Act is the model laws and rules prepared jointly by the American Institute of Certified Public Accountants and the National Association of State Boards of Accountancy.

The proposed definitions are necessary to clarify the existing statutory language, and to provide a clear understanding for prospective and current practice privilege holders as to what these terms mean in complying with the law, including an understanding of how to complete forms using these terms provided by the CBA,

## **3. Adopt Section 19 in Title 16 of the California Code of Regulations.**

This proposal incorporates three forms by reference. The Practice Privilege Pre-Notification of Listed Events Form is to be used by out-of-state licensees who acquired certain disqualifying conditions in the seven years prior to the date they wish to practice in California. The reporting of this information is required by law. This form will be used by the CBA to initiate an investigation to determine whether or not the individual may practice in California under a practice privilege.

The Notification of Cessation of Practice Privilege Form is to be used by individuals exercising a practice privilege who acquire certain disqualifying conditions. The reporting of this information is required by law. This form will be used to report to the CBA the conditions which required the cessation of practice, and it will be used by the CBA to determine if and when the individual may resume practice.

The Application for Reinstatement of a Practice Privilege is to be used by individuals whose practice privilege has been revoked by the CBA to request that the practice privilege be restored. The information requested on this form is necessary for the CBA to make an informed judgment as to whether the individual's practice privilege should be reinstated. The CBA will use the information on the form to determine if a

reinstatement hearing is appropriate, whether all discipline has been complied with, and to schedule a hearing before the CBA.

These forms are necessary in order to ensure consistency and clarity of the information being requested from the practice privilege holders. The forms provide a standardized vehicle for collecting that information.

#### **4. Adopt Section 20 in Title 16 of the California Code of Regulations.**

This proposal incorporates the Out-of-State Accounting Firm Registration Form by reference. This form will be used to register firms licensed by another state in order that practice privilege holders employed by those firms may perform certain attest functions for companies that are headquartered in California.

This form is necessary in order to ensure consistency and clarity of the information being requested from the firms. The forms provide a standardized vehicle for collecting that information.

This proposal states that the registration is good for two years after which it must be renewed every two years thereafter. The proposal specifies what information is required for renewal of the registration including current contact information, current license information, and current ownership information. A two-year renewal is consistent with the CBA's licensing renewal period. The minimal amount of information being requested for renewal means that a standardized form is not needed as the requirements are already clear.

The proposal states that a registration may be renewed anytime up until five years after the registration expires, at which time the registration is cancelled. The proposal allows for re-registration after the cancellation of a registration. Finally, the proposal requires these registered firms to maintain current address of record and ownership information with the CBA, defines "registered firms," and requires that information changes be submitted in writing and be signed by someone whom the registered firm has authorized to sign such notifications. These requirements are needed in order to maintain consistency with licensing requirements already in effect.

#### **5. Adopt Section 21 in Title 16 of the California Code of Regulations.**

This proposal establishes an appeals process for individuals who want to appeal any decision made by CBA staff under Section 5096 (g-i). Two copies of the appeal must be submitted within 15 days and must contain identification information of the practice privilege holder, action and date of the action being appealed, and the basis of the appeal. The proposal allows the CBA to only consider information that was available to staff at the time the decision was made. If new information is presented, the matter will be reconsidered by staff. The proposal requires the individual to comply with the action pending the outcome of the appeal. These provisions are consistent with existing CBA regulation Section 49 and are necessary to ensure that the CBA is the entity ultimately reviewing decisions made by staff.

**6. Adopt Section 22 in Title 16 of the California Code of Regulations.**

This proposal allows the Executive Officer to issue a Notice of Intent to Administratively Suspend. As no address of record is required from practice privilege holders, the Notice is to be mailed, pursuant to Business and Professions Code Section 5096(e)(4), to the state board of accountancy that licensed the practice privilege holder. The Notice is to provide the information contained in the Administrative Suspension Order (ASO) and provide the practice privilege holder with 30 days to respond. After considering any response, the Executive Officer determines whether to proceed with issuing the ASO. These provisions are consistent with existing CBA regulation Section 35.1 which is in Article 4 which is being made inoperative by this rulemaking.

**7. Amend Section 26 in Title 16 of the California Code of Regulations.**

This proposal makes the existing practice privilege regulations in Article 4 inoperative effective July 1, 2013, the operative date of the new law and the new Article 3 created by this rulemaking.

**8. Amend Section 36.1 in Title 16 of the California Code of Regulations.**

This proposal renumbers existing Section 21 as Section 36.1 for the purpose of creating room for the new practice privilege regulations article.

**9. Amend Section 98 in Title 16 of the California Code of Regulations.**

This proposal incorporates by reference the CBA's 8<sup>th</sup> edition of "A Manual of Disciplinary Guidelines and Model Disciplinary Orders." The guidelines are updated to remove the guidelines for the existing practice privilege program and replacing them with guidelines for the new practice privilege program.

Specifically, guidelines for violating the following are being added to the document:

- Business and Professions Code
  - Section 5096(d) – Practicing through and unregistered firm;
  - Section 5096(e)(2) – Comply with rules, laws, and standards;
  - Section 5096(e)(3) – Practice from an unauthorized office in this state;
  - Section 5096(e)(5) – Cooperate with the Board;
  - Section 5096(e)(6), (7), (8), and (9) – Failure to cease exercising the practice privilege;
  - Section 5096(f) – Failure to notify the Board/cease practice;
  - Section 5096(i) – Failure to file Pre-Notification Form;
  - Section 5096.5 – Unauthorized signing of attest reports;
  - Section 5096.12 – Firm practicing without a practice privilege holder, and;
- CBA Regulations
  - Section 20 – Notification of change of information forregistered out-of-state accounting firms.

The revised guidelines for the new practice privilege program are necessary to ensure consistent application of discipline for violations of the law and are consistent with the

minimum discipline required by law or with the current disciplinary guidelines where there was little or no change from existing law.

### **Anticipated Benefits of the Proposal**

Out-of-state licensees wishing to practice in California who are required to self-report will benefit from this proposal by having standard forms on which to report such information. In addition, the proposal creates an appeals process for practice privilege holders who object to certain decisions made by CBA staff. The proposal also benefits out-of-state firms by providing a standard registration form to ensure they provide all of the required information for registering in California.

In addition, consumers benefit through the new disciplinary guidelines which are drafted in such a way as to ensure that violations of the practice privilege laws and rules are met with appropriate discipline.

### **Consistency and Compatibility with Existing State Regulations**

The CBA has evaluated this regulatory proposal and it is neither inconsistent nor incompatible with existing state regulations.

### **Fiscal Impact Estimates**

#### Fiscal Impact on Public Agencies Including Costs or Savings to State Agencies or Costs/Savings in Federal Funding to the State:

While the majority of the fiscal impact is due to the removal of the practice privilege fee and the notification requirement through SB 1405 of 2012, the fiscal impact of the regulation itself is minimal resulting in an additional minor and absorbable workload for processing the self-reporting forms and firm registrations.

Nondiscretionary Costs/Savings to Local Agencies: None.

Local Mandate: None.

Cost to Any Local Agency or School District for Which Government Code Section 17561 Requires Reimbursement: None.

### **Material Relied Upon**

Uniform Accountancy Act (6<sup>th</sup> Edition, August 2011), Section 3 – Definitions

### **Underlying Data**

Practice Privilege Pre-Notification of Listed Events Form (PP-10 (1/13))

Notification of Cessation of Practice Privilege Form (PP-11 (1/13))

Application for Reinstatement of Practice Privilege (PP-12 (1/13))

Out-of-State Accounting Firm Registration Form (PP-13 (1/13))

"A Manual of Disciplinary Guidelines and Model Disciplinary Orders" (8<sup>th</sup> edition, 2013)

PROPOSED REGULATORY LANGUAGE

**§ 5.5. Substantial Equivalency.**

(a) The Board has determined that the following states require education, examination, and experience qualifications for licensure, when issuing a certified public accountant license to practice public accountancy, substantially equivalent to this state's qualifications:

Alabama, Alaska, Arizona, Arkansas, Commonwealth of the Northern Mariana Islands, Colorado, Connecticut, Delaware, District of Columbia, Florida, Georgia, Guam, Hawaii, Idaho, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Maine, Maryland, Massachusetts, Michigan, Minnesota, Mississippi, Missouri, Montana, Nebraska, Nevada, New Hampshire, New Jersey, New Mexico, New York, North Carolina, North Dakota, Ohio, Oklahoma, Oregon, Pennsylvania, Puerto Rico, Rhode Island, South Carolina, South Dakota, Tennessee, Texas, Utah, Vermont, Virginia, Washington, West Virginia, Wisconsin, Wyoming.

(b) Individuals who have not continually practiced public accountancy as a certified public accountant under a valid license issued by any state for at least four of the last 10 years, and who do not hold a license issued by a state that is listed in subdivision (a), shall meet the following requirements in order for their education, examination, and experience qualifications to be considered substantially equivalent to this state's qualifications:

(1) Obtain an individual qualification evaluation of substantial equivalency by the National Association of State Boards of Accountancy's (NASBA) CredentialNet. Prior to practicing in California under a practice privilege, an individual shall apply to NASBA's CredentialNet, pay the required fee, and obtain the required substantial equivalency determination.

(2) The individual shall retain the NASBA file number, present it to the Board upon request, and authorize the Board to review the NASBA file upon request.

Note: Authority cited: Sections 5010 and 5096.9, Business and Professions Code.  
Reference: Sections 5093 and 5096, Business and Professions Code.

**Article 3 – Waiver of Examination**

**Article 3- Practice Privileges (operative July 1, 2013 – December 31, 2018)**

**§ 18. Purpose of this Article and Definitions**

(a) This article implements Article 5.1 of Chapter 1 of Division 3 of the Business and Professions Code related to practice privileges. This article shall become operative on July 1, 2013, and shall become inoperative on January 1, 2019.

(b) For the purposes of this article and Article 5.1 of Chapter 1 of Division 3 of the Business and Professions Code, the following definitions shall apply:

(1) "Minor traffic violation" shall mean traffic infractions under \$1000 not involving alcohol, dangerous drugs, or controlled substances.

(2) "Principal place of business" shall mean the office location designated by the licensee for the purposes of practice privilege.

Note: Authority cited: Sections 5010 and 5096.9, Business and Professions Code.  
Reference: Section 5096, Business and Professions Code.

### **§19. Practice Privilege Forms for Individuals**

(a) An individual who is required to provide notification to the Board pursuant to Section 5096(i)(1) of the Business and Professions Code shall do so on the Practice Privilege Pre-Notification of Listed Events Form (PP-10 (1/13)), which is hereby incorporated by reference.

(b) An individual who is required to provide notification to the Board pursuant to Section 5096(f) of the Business and Professions Code shall do so on the Notification of Cessation of Practice Privilege Form (PP-11 (1/13)), which is hereby incorporated by reference.

(c) An individual applying for reinstatement of a practice privilege under Section 5096.2(c) of the Business and Professions Code shall do so on the Application for Reinstatement of Practice Privilege (PP-12 (1/13)), which is hereby incorporated by reference.

Note: Authority cited: Sections 5010 and 5096.9, Business and Professions Code.  
Reference: Sections 5096 and 5096.2, Business and Professions Code.

### **§20. Registration Forms for Out-of-State Accounting Firms**

(a) An out-of-state accounting firm organized and authorized to practice public accountancy under the laws of another state, as specified in Business and Professions Code Sections 5070 and 5035.3, that performs services pursuant to Business and Professions Code Section 5096(d), which require the accounting firm to register with the Board, shall do so on the Out-of-State Accounting Firm Registration Form (PP-13 (1/13)), which is hereby incorporated by reference.

(b) (1) An out-of-state accounting firm registered by the Board pursuant to subdivision (a) shall renew its registration on the last day of the month in which the registration was initially approved by the Board every second year.

(2) The out-of-state accounting firm shall provide the following information at the time of renewal:

(A) Current contact information;

(B) Current license information from all states in which the firm is licensed including license number, expiration date and any enforcement actions taken against the license including the following:

(i) Pending disciplinary action such as an accusation filed;

(ii) Revocation or suspension, including stayed revocation or stayed suspension;

(iii) Probation or other limitation on practice ordered by a state board of accountancy including any interim suspension order;

(iv) Temporary restraining order or other restriction on practice ordered by a court;

(v) Public letter of reprimand issued;

(vi) Infraction, citation, or fine imposed; or,

(vii) any other enforcement related orders of a state board of accountancy; and,

(C) An update of the ownership information that was originally reported on the Out-of-State Accounting Firm Registration Form (PP-13 (1/13)).

(3) An expired registration may be renewed at any time within five years after its expiration upon providing the information required in paragraph (2). A registration that is not renewed within five years following its expiration may not be renewed, and the registration shall be canceled immediately upon expiration of the five-year period. An out-of-state accounting firm with a registration that has cancelled pursuant to this paragraph may re-register pursuant to subdivision (a).

(c)(1) Each registered out-of-state accounting firm shall notify the Board of any change in its address of record within 30 days after the change. If the address of record is a post office box or mail drop, the change of address notification shall include the street address of the firm.

(2) Each registered out-of-state accounting firm shall notify the Board of any change in its ownership, as reported on the Out-of-State Accounting Firm Registration Form (PP-13 (1/13)), within 30 days after the change.

(3) For purposes of this section "registered firm" includes any firm registered by the Board pursuant to this section even if the registration is suspended or otherwise subject to disciplinary action, provided the registration is not expired, canceled or revoked.

(4) All notifications required under this subdivision shall be in writing and shall be signed by an individual authorized by the registered firm to submit such notifications along with the individual's printed name and title, and a certification that the information is true and correct to the best of the individual's knowledge.

Note: Authority cited: Sections 5010 and 5096.9, Business and Professions Code. Reference: Sections 5035.3, 5070, 5096, and 5096.12, Business and Professions Code.

## **§ 21. Appeals.**

(a) Any individual practicing or wanting to practice under a practice privilege who wishes to contest an action taken by Board staff under Section 5096(g), 5096(h), or 5096(i) of the Business and Professions Code may appeal such action to the Board. The appeal shall be filed within 15 days of the date of the action or written notification of the action from the Board. Two signed copies of the appeal shall be mailed or delivered to the office of the California Board of Accountancy. The appeal shall contain the following information:

(1) The name, business address, residence address, and state of licensure of the out-of-state licensee making the appeal.

(2) The action being appealed and the date of the action or written notification of the action from the Board.

(3) A summary of the basis for the appeal, including any information which the out-of-state licensee believes was not given adequate consideration by staff.

(b) The Board will consider only appeals based on information previously considered by its staff. If the individual wishes to submit for consideration additional evidence or information not previously submitted to Board staff, such additional information should be submitted with the request for appeal. An appeal based on evidence or information not previously submitted to staff will be referred by the Board to staff for further consideration.

(c) The out-of-state licensee shall comply with any action or order of the Board until such time as the appeal is acted upon.

Note: Authority cited: Section 5010 and 5096.9, Business and Professions Code.  
Reference: Section 5096, Business and Professions Code.

## **§ 22. Notice of Intent to Administratively Suspend.**

(a) Prior to the issuance of an Administrative Suspension Order pursuant to Business and Professions Code Section 5096.4, the Executive Officer may issue a Notice of Intent to Administratively Suspend. The Notice of Intent to Administratively Suspend shall be in writing and shall be mailed to a state board of accountancy with which the practice privilege holder is licensed.

(b) The Notice of Intent to Administratively Suspend shall include a description of the contents of the Administrative Suspension Order pursuant to subdivision (c) of Section 5096.4.

(c) The Notice of Intent to Administratively Suspend shall provide the practice privilege holder with 30 days from the date of mailing in which to respond in writing by showing cause to the Executive Officer why the Administrative Suspension Order should not be

issued.

(d) The Executive Officer shall determine whether or not the Administrative Suspension Order shall be issued and shall so inform the practice privilege holder in writing.

**NOTE:** Authority cited: Sections 5010 and 5096.9, Business and Professions Code.  
Reference: Sections 5096 and 5096.4, Business and Professions Code.

#### **Article 4 – Practice Privileges (inoperative on July 1, 2013)**

##### **§ 26. Purpose of this Article.**

(a) This Article implements Article 5.1 of the Accountancy Act (commencing with Business and Professions Code Section 5096) related to Practice Privileges.

(b) This article shall be inoperative commencing on July 1, 2013. See Article 3 for practice privilege regulations that are operative commencing July 1, 2013.

Note: Authority cited: Sections 5010 and 5096.9, Business and Professions Code.  
Reference: Sections 5096-5096.15, Business and Professions Code.

##### **§ 21. § 36.1. Out-of-State Licensee.**

(a) The Board will consider applications filed under Section 5087 from holders of valid unrevoked Certified Public Accountant licenses issued under the laws of any state. The Board may deny an application when the facts indicate that the applicant has been a California resident before, during or after having obtained a CPA license in another state and when the facts indicate that the applicant's CPA license was obtained in another state to evade otherwise applicable California statutes and rules.

(b) An applicant pursuant to Business and Professions Code Section 5087 may be considered to have met the education, examination, and experience requirements for issuance of the California license if the applicant shows, to the satisfaction of the Board, that he or she has engaged in the practice of public accounting as a licensed Certified Public Accountant in another state for four of the ten years preceding the date of application for a California license.

(c) An applicant pursuant to Business and Professions Code Section 5087 may be considered to have met the attest experience requirement of Section 5095 if the applicant shows to the satisfaction of the Board that he or she has been authorized to provide attest services and engaged in the practice of public accounting as a Certified Public Accountant in another state for four of the ten years preceding the date of application for a California license.

NOTE: Authority cited: ~~Section~~ Sections 5010 and 5018, Business and Professions Code. Reference: ~~Section~~ Sections 5082, 5087 and 5095, Business and Professions Code.

**§ 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 "A Manual of Disciplinary Guidelines and Model Disciplinary Orders" (~~7<sup>th</sup> edition, 2011~~ 8<sup>th</sup> edition, 2013) 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, 5096-5096.12, 5100 and 5116-5116.6, Business and Professions Code; and Section 11425.50(e), Government Code.

*(Note to Printer: The dash in the final sentence of Section 98 is struck through and is being removed in this rulemaking)*



controlled substances. Convictions that were adjudicated in the juvenile court or convictions under California Health and Safety Code sections 11357(b), (c), (d), or (e), or Section 11360(b) which are two years or older should NOT be reported.

E. Acquired either of the following disqualifying conditions:

- Revocation, suspension, denial, surrender, or other discipline or sanctions involving any license, permit, registration, certificate, or other authority to practice any profession in this or any other state or foreign country or to practice before any state, federal, or local court or agency, or the Public Company Accounting Oversight Board.
- Any judgment or arbitration award involving professional conduct in the amount of thirty thousand dollars (\$30,000) or greater.

**If you checked a condition above, you are not authorized to practice public accountancy in California unless and until you receive written approval from the CBA.**

In addition, you must complete and return Attachment 1 providing explanatory details along with this form to the CBA to meet your reporting requirement. Any misrepresentation or omission in connection with this notification may disqualify you from the California practice privilege.

I hereby certify, under penalty of perjury under the laws of the State of California, that all statements, answers, and representations on this form and any accompanying attachments are true, complete, and accurate. I further certify that I have read this entire form. By submitting this form and signing below, I am granting permission to the CBA to verify the information provided and to perform any investigation pertaining to the information I have provided as the CBA deems necessary.

Signature: \_\_\_\_\_

Date: \_\_\_\_\_

Name: \_\_\_\_\_

## Attachment 1

1. Please provide explanatory details of your listed event:

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NOTICE OF PERSONAL INFORMATION COLLECTION AND ACCESS: The information provided in this form will be used by the California Board of Accountancy to determine whether you qualify for practice privilege in California. Sections 5096 through 5096.21 of the California Business and Professions Code authorize the collection of this information. Failure to provide any of the required information is grounds for rejection of the form as being incomplete. Information provided may be transferred to the Department of Justice, a District Attorney, a City Attorney, or to another government agency as may be necessary to permit the Board, or the transferee agency, to perform its statutory or constitutional duties, or otherwise transferred or disclosed as provided in California Civil Code Section 1798.24. Each individual has the right to review his or her file, except as otherwise provided by the California Information Practices Act. Certain information provided may be disclosed to a member of the public, upon request, under the California Public Records Act. The Executive Officer of the California Board of Accountancy is responsible for maintaining the information in this form, and may be contacted at 2000 Evergreen Street, Suite 250, Sacramento, CA 95815, telephone number (916) 263-3680 regarding questions about this notice or access to records.



D. I have had my right to practice before any governmental body or agency suspended.

**If you checked a box above, you are not authorized to practice public accountancy in California unless and until you receive written approval from the CBA.**

Are you seeking approval to continue practicing in California?  Yes  No

**You must complete and return Attachment 1 providing explanatory details along with this form to the CBA to meet your reporting requirement.**

I hereby certify, under penalty of perjury under the laws of the State of California, that all statements, answers, and representations on this form and any accompanying attachments are true, complete, and accurate. I further certify that I have read this entire form. By submitting this form and signing below, I am granting permission to the CBA to verify the information provided and to perform any investigation pertaining to the information I have provided as the CBA deems necessary.

Signature: \_\_\_\_\_

Date: \_\_\_\_\_

Name: \_\_\_\_\_

## Attachment 1

1. Please provide explanatory details and any supporting documentation of your condition requiring cessation of practice:

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PERSONAL INFORMATION COLLECTION AND ACCESS: The information provided in this form will be used by the California Board of Accountancy to determine whether you qualify for practice privilege in California. Sections 5096 through 5096.21 of the California Business and Professions Code authorize the collection of this information. Failure to provide any of the required information is grounds for rejection of the form as being incomplete. Information provided may be transferred to the Department of Justice, a District Attorney, a City Attorney, or to another government agency as may be necessary to permit the Board, or the transferee agency, to perform its statutory or constitutional duties, or otherwise transferred or disclosed as provided in California Civil Code Section 1798.24. Each individual has the right to review his or her file, except as otherwise provided by the California Information Practices Act. Certain information provided may be disclosed to a member of the public, upon request, under the California Public Records Act. The Executive Officer of the California Board of Accountancy is responsible for maintaining the information in this form, and may be contacted at 2000 Evergreen Street, Suite 250, Sacramento, CA 95815, telephone number (916) 263-3680 regarding questions about this notice or access to records.

# APPLICATION FOR REINSTATEMENT OF PRACTICE PRIVILEGE

## CONTACT INFORMATION

Name: \_\_\_\_\_  
Last
First
MI

Business\*  
 Mailing  
 Address: \_\_\_\_\_

Business Phone #: \_\_\_\_\_ Business Fax #: \_\_\_\_\_ Business Email: \_\_\_\_\_

Home Phone #: \_\_\_\_\_ Other Phone #: \_\_\_\_\_

**Out-of-State License Information:**

State/Country	License No.	Date Issued	Expiration Date	Current Status

Effective Date of Revocation of Practice Privilege:
Reason for Revocation:

**Practice Prior to Revocation of Practice Privilege (List only immediate ten-year period)**

Dates	Type of Practice	Location

\* May provide home address if no business address is available. To help CBA maintain privacy, please write "home" next to any home address that is provided.

Occupation and Activities Since the Date of the Revocation of Practice Privilege:

Dates	Occupation	Duties/Activities	Location

1. Since the effective date of the Revocation, have you been involved in any of the following situations?

a) Charged with or convicted of a violation of Federal or State law other than a “minor traffic violation?” All misdemeanors, felonies, infractions or citations, including traffic violations, must be reported. Convictions expunged from the record of the court or set aside pursuant to section 1203.4 of the California Penal Code or equivalent non-California law MUST be disclosed. “Minor Traffic Violations” should NOT be reported. For the purposes of responding to this question, “minor traffic violation” means traffic infractions under \$1000 not involving alcohol, dangerous drugs, or controlled substances. Convictions under California Health and Safety Code sections 11357(b), (c), (d), or (e), or Section 11360(b) which are two years or older should NOT be reported.

YES  NO

b) Had another governmental or regulatory body or agency discipline or sanction you? For the purposes of responding to this question, “disciplinary action” is an administrative action that resulted in a restriction or penalty being placed on your license, such as a revocation, suspension, or probation.

YES  NO

c) Are you now on probation or parole to the courts for any criminal violation(s) in this or any other state?

YES  NO

**IF YOU ANSWER YES TO ANY OF THE ABOVE, PLEASE ATTACH A NARRATIVE STATEMENT OF EXPLANATION GIVING FULL DETAILS.**

2. Prior to or upon reinstatement of a revoked Practice Privilege, the applicant will generally be required to reimburse the California Board of Accountancy (CBA) for all reasonable costs of investigation and prosecution resulting from the prior disciplinary proceeding that revoked the privilege. Have you reimbursed the CBA for these costs?

YES  NO

If NO, please explain why in the Narrative Explanation. If you believe that payment of these costs would cause an unreasonable financial hardship that could not be remedied through a payment plan, please explain and provide documentation to support your claim of financial hardship.

3. As part of the application process, the CBA evaluates the applicant's compliance with any ordered or voluntary restitution to harmed clients/consumers. Have you made restitution to any parties financially harmed?

YES    NO    NOT APPLICABLE

If YES, please provide proof of payment. If NO, please explain in the Narrative Explanation.

4. Explain why you believe your application should be granted. Include what aspects of your rehabilitation you believe will protect against a re-occurrence of your prior conduct.

5. If the CBA grants your application, where will you practice and what type of services will you perform?

6. Do you plan to attend the hearing before the CBA in the matter of this application?

YES    NO

7. Do you plan to have legal counsel represent you at the hearing before the CBA in the matter of this application?

YES    NO

Legal Counsel Name: \_\_\_\_\_

Firm Name: \_\_\_\_\_

Address: \_\_\_\_\_

Telephone #: \_\_\_\_\_

I hereby certify, under penalty of perjury under the laws of the State of California, that all statements, answers, and representations on this form and any accompanying attachments are true, complete, and accurate. I further certify that I have read this entire application. By submitting this form and signing below, I am granting permission to the CBA to verify the information provided and to perform any investigation pertaining to the information I have provided as the CBA deems necessary.

---

(Signature)

(Date)

**Please return completed application to:  
California Board of Accountancy  
Enforcement Division  
2000 Evergreen Street, Suite 250  
Sacramento, CA 95815**

**NARRATIVE EXPLANATION**

**Name:** \_\_\_\_\_

## **NOTICE OF PERSONAL INFORMATION COLLECTION AND ACCESS NOTICE**

The California Board of Accountancy (CBA) collects the information requested on this form as authorized by Business and Professions Code Sections 5096.2, 5096.3, 5096.9, and 5107. The personal information collected is used principally to administer and to enforce licensing standards set by law and regulation. The personal information provided may be transferred to the Department of Justice, a District Attorney, a City Attorney, or to another government agency as may be necessary to permit the CBA or the transferee agency to perform its statutory or constitutional duties, or otherwise transferred or disclosed as permitted by Civil Code section 1798.24 . Each individual has the right to review his or her personal information in his or her file, except as otherwise permitted by the Information Practices Act (Civil Code sections 1798 and following). Certain information provided may be disclosed to a member of the public, upon request, under the California Public Records Act and Information Practices Act.

## OUT-OF-STATE ACCOUNTING FIRM REGISTRATION FORM

This form must be completed by out-of-state accounting firms that intend to perform any of the following services for an entity headquartered in California:

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

<b>Section A: Firm Information</b>			
Firm Name			
Address of Principal Place of Business (Address of Record)	City	State	Zip Code
Mailing Address (If different than above)	City	State	Zip Code
Business Telephone Number  (    )	Fax Number  (    )		
Business E-mail:			
Social Security Number (only required for sole proprietorships):*			
Federal Employer Identification Number (required for general partnerships, limited partnerships and limited liability partnerships):*			

<b>Section B: Licensure Information (Provide information for all states in which the firm is licensed)</b>		
State of Licensure	License Number	Expiration Date
State of Licensure	License Number	Expiration Date
State of Licensure	License Number	Expiration Date

# Out-of-State Accounting Firm Registration Form

Page 2 of 5

State of Licensure	License Number	Expiration Date
State of Licensure	License Number	Expiration Date
State of Licensure	License Number	Expiration Date

## Section C: Form of Legal Organization

- |  |   |
|--|---|
| <input type="checkbox"/> Sole Proprietorship             | <input type="checkbox"/> General Partnership                |
| <input type="checkbox"/> Corporation                     | <input type="checkbox"/> Limited Partnership (LP)           |
| <input type="checkbox"/> Limited Liability Company (LLC) | <input type="checkbox"/> Limited Liability Partnership(LLP) |

## Section D: Enforcement Actions

Have any of the following enforcement actions been taken against any of the licenses listed in Section B?  
(Check all that apply)

- Pending disciplinary action such as an accusation filed.
- Revocation or suspension, including stayed revocation or stayed suspension.
- Probation or other limitation on practice ordered by a state board of accountancy including any interim suspension order.
- Temporary restraining order or other restriction on practice ordered by a court.
- Public letter of reprimand issued.
- Infraction, citation, or fine imposed.
- Any other enforcement related orders of a state board of accountancy.

## Section E: Ownership Information (An out-of-state accounting firm must provide a list of all owners associated with the firm as described below. Please attach the necessary list(s) to the application.)

### Sole Proprietorship

The full name, address, license number, state of licensure, and expiration date of the license.

### General Partnerships, Limited Partnership, and Limited Liability Partnership

A list of all Certified Public Accountant (CPA) partners, including full name, address, license number, state of

## Out-of-State Accounting Firm Registration Form

Page 3 of 5

licensure, and expiration date of the license.

A list of all non-CPA partners, including full name and address\*\* for each partner.

### Corporations

A list of all Certified Public Accountant (CPA) shareholders, including full name, address, license number, state of licensure, and expiration date of the license.

A list of all non-CPA shareholders, including full name and address for each shareholder.

### Limited Liability Company

A list of all CPA directors or members, including full name, address, license number, state of licensure, and expiration date of the license.

A list of all non-licensed CPA directors or members, the list must include the full name and address for each director or member.

### **Section F: Important Notice (By signing the penalty of perjury statement below and submitting this registration form, you are certifying that you have received and read this notice.)**

- The practice of public accountancy by the accounting firm is limited to authorized practice by the holder of a practice privilege provided for by Business and Professions Code Section 5096.
- If the firm engages in the practice of public accountancy through a practice privilege holder, it has consented to the personal, subject matter, and disciplinary jurisdiction of the California Board of Accountancy.
- The California Board of Accountancy may revoke, suspend, issue a fine pursuant to Article 6.5 (commencing with Section 5116), or otherwise restrict or discipline the firm for any act that would be grounds for discipline against a holder of a practice privilege through which the firm practices.
- Pursuant to Sections 2105, 15909.02, 16959, and 17451 of the California Corporations Code, before transacting intrastate business in California a business must first qualify and register with the California Secretary of State. For the purposes of determining if a business is transacting intrastate business, Section 191, subdivision (ai) of Section 15901.02, and subdivision (ap) of Section 17001 of the California Corporations Code defines transacting intrastate business as entering into repeated and successive transactions of its business in California, other than in interstate or foreign commerce.
- Any material misrepresentation of any information on the application is grounds for refusal or subsequent revocation of the registration,
- For sole proprietors and partnerships: Effective July 1, 2012, the California State Board of Equalization (BOE) and the California Franchise Tax Board (FTB) may share taxpayer information with the CBA. You are required to pay your state tax obligation and your license may be suspended or your renewal application denied if the state tax obligation is not paid and your name appears on either the BOE or FTB certified list of top 500 tax delinquencies.

# Out-of-State Accounting Firm Registration Form

## Section G: Penalty of Perjury Statement

I hereby certify, under penalty of perjury under the laws of the State of California, that I am a person authorized to act for and bind the applicant and that all statements, answers, and representations made on this form and any accompanying attachments are true, complete, and accurate to the best of my knowledge. I further certify that I have read this entire registration form. By submitting this form and signing below, I am granting permission to the California Board of Accountancy to verify the information provided and to perform any investigation pertaining to the information I have provided on behalf of the firm as the California Board of Accountancy deems necessary.

Signature

Date

Printed Name

Title

**In addition to the states of licensure identified in Section B, the accounting firm is also authorized to practice public accountancy in the following states:**

State of Licensure	License Number	Expiration Date
State of Licensure	License Number	Expiration Date
State of Licensure	License Number	Expiration Date
State of Licensure	License Number	Expiration Date
State of Licensure	License Number	Expiration Date
State of Licensure	License Number	Expiration Date
State of Licensure	License Number	Expiration Date

## Out-of-State Accounting Firm Registration Form

Page 5 of 5

### NOTICE OF PERSONAL INFORMATION COLLECTION AND ACCESS:

The information provided in this form will be used by the California Board of Accountancy to determine whether the out-of-state firm qualifies for registration in California. Sections 30, 31, 5035.3, 5070, and 5096 through 5096.21 of the California Business and Professions Code authorize the collection of this information. Failure to provide any of the required information is grounds for rejection of the form as being incomplete. Information provided may be transferred to the Department of Justice, a District Attorney, a City Attorney, Board of Equalization, the Franchise Tax Board or to another government agency as may be necessary to permit the Board, or the transferee agency, to perform its statutory or constitutional duties, or otherwise transferred or disclosed as provided in California Civil Code Section 1798.24. Each individual has the right to review his or her file, except as otherwise provided by the California Information Practices Act. Certain information provided may be disclosed to a member of the public, upon request, under the California Public Records Act. The Executive Officer of the California Board of Accountancy is responsible for maintaining the information in this form, and may be contacted at 2000 Evergreen Street, Suite 250, Sacramento, CA 95815, telephone number (916) 263-3680 regarding questions about this notice or access to records.

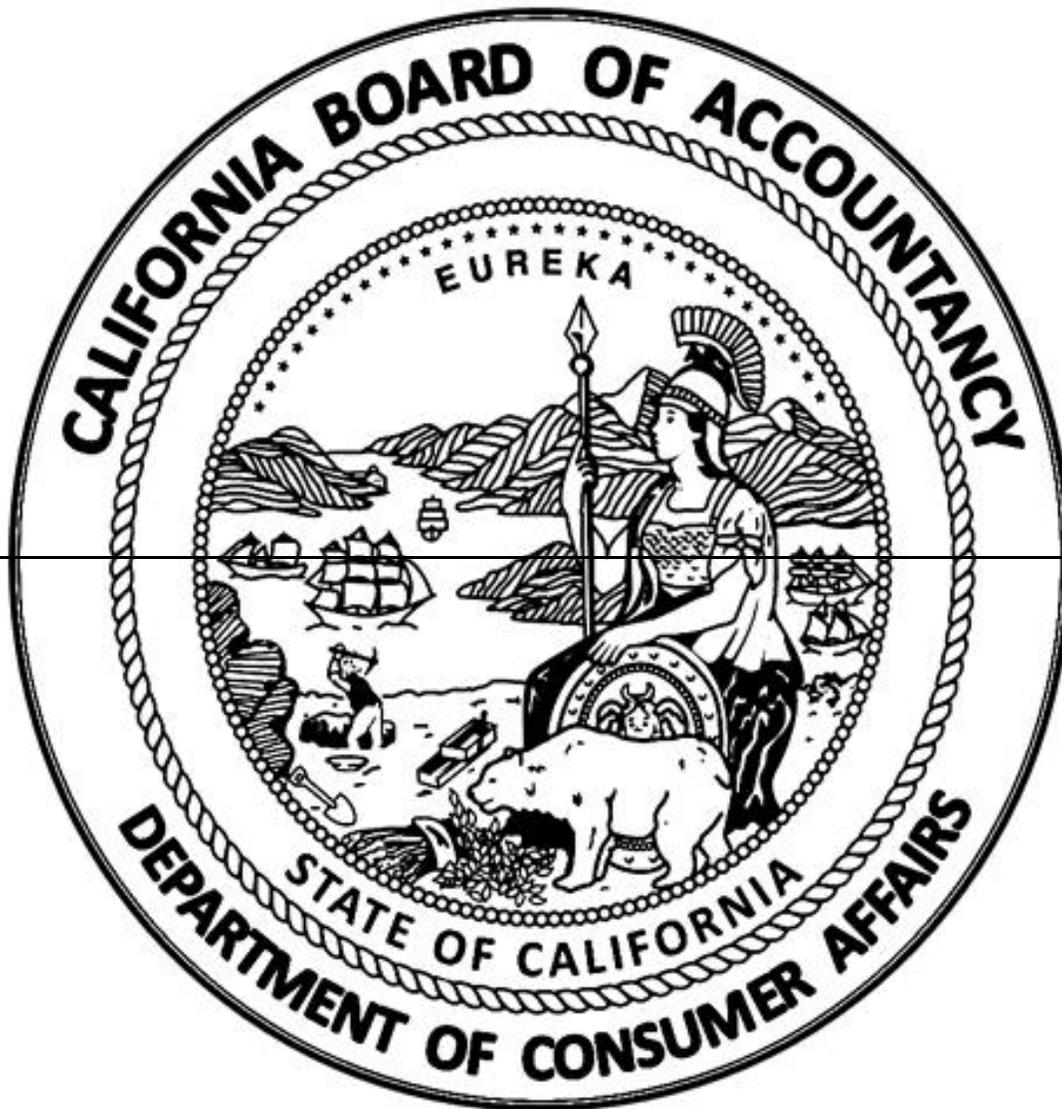
\*Disclosure of your social security number if you are a sole proprietor or federal employer identification number ("FEIN") if you are a partnership is mandatory. Section 30 of the Business and Professions Code and Public Law 94-455 (42 USCA 405(c)(2)(C)) authorize collection of your social security number. Your social security number or FEIN will be used exclusively for tax enforcement purposes or compliance with any judgment or order for family support in accordance with section 17520 of the Family Code. If you fail to disclose your social security number or your FEIN, your application for initial or renewal license will not be processed AND you may be reported to the Franchise Tax Board, which may assess a \$100 penalty against you. \*\*If provided to the Board and identified as residential or home, residential addresses will not be made available to the public unless listed as the "address of record" on the application.



CALIFORNIA BOARD OF  
ACCOUNTANCY

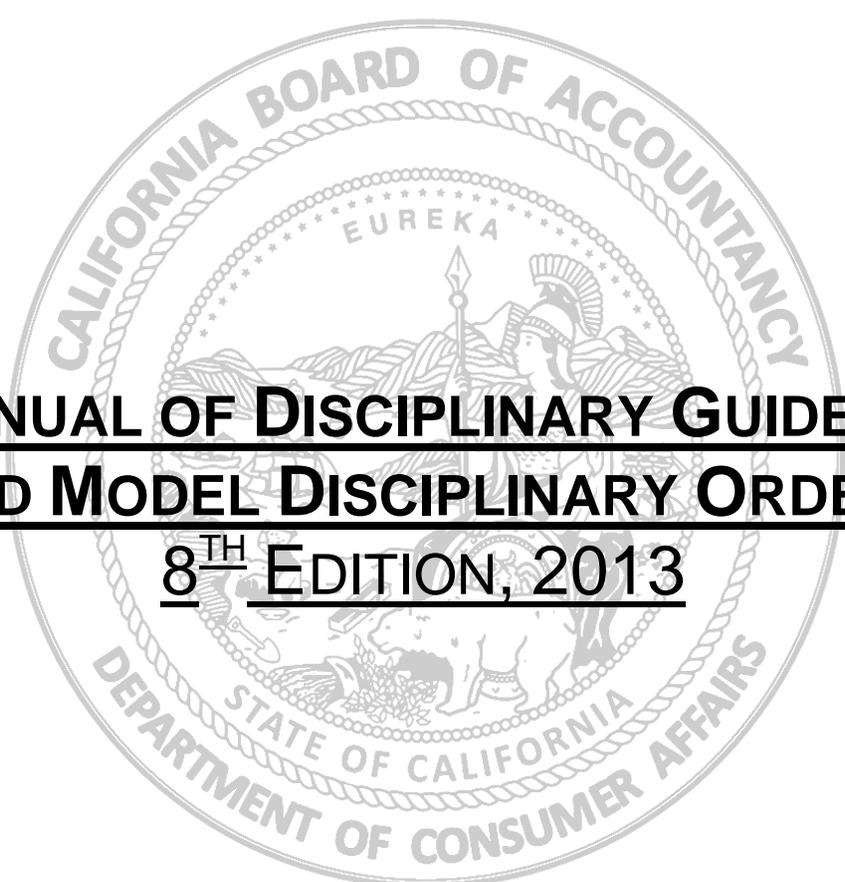


**A MANUAL OF DISCIPLINARY GUIDELINES  
AND MODEL DISCIPLINARY ORDERS  
7<sup>th</sup> Edition 2011**



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

# CALIFORNIA BOARD OF ACCOUNTANCY

The seal of the California Board of Accountancy is a circular emblem. It features a central figure of a woman in classical attire, holding a spear and a shield, standing on a rocky outcrop. Above her is the word "EUREKA" surrounded by a ring of stars. The outer ring of the seal contains the text "CALIFORNIA BOARD OF ACCOUNTANCY" at the top and "DEPARTMENT OF CONSUMER AFFAIRS" at the bottom. Below the central figure, the words "STATE OF CALIFORNIA" are visible.

A MANUAL OF DISCIPLINARY GUIDELINES  
AND MODEL DISCIPLINARY ORDERS  
8<sup>TH</sup> EDITION, 2013

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CALIFORNIA BOARD OF ACCOUNTANCY  
2000 EVERGREEN STREET, SUITE 250  
SACRAMENTO, CA 95815-3832  
(916) 263-3680 – TELEPHONE  
(916) 263-3675 – FACSIMILE  
[www.cba.ca.gov](http://www.cba.ca.gov)

The logo for the California Board of Accountancy (CBA) consists of the letters "CBA" in a bold, stylized font. The "C" and "B" are connected, and the "A" is separate. Below the letters, the words "CALIFORNIA BOARD OF ACCOUNTANCY" are written in a smaller, sans-serif font.

**CBA**  
CALIFORNIA BOARD OF  
ACCOUNTANCY

# **DISCIPLINARY GUIDELINES AND MODEL DISCIPLINARY ORDERS**

## **I. INTRODUCTION**

The California Board of Accountancy (CBA) licenses the practice of 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 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 California Public Accountants and Certified Public Accountants as well as any alleged violation of the California Accountancy Act. The California Accountancy Act and the regulations of the California Board of Accountancy provide the basis for CBA disciplinary action. (See California Business and Professions Codes Sections 5000 et seq., and Title 16 California Code of Regulations 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 California Business and Professions Code Section 5109.)

These disciplinary guidelines, designed for the use of Administrative Law Judges, attorneys, CBA licensees, and others involved in the CBA's disciplinary process, are revised from time to time. The guidelines cover model disciplinary 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. This revised edition was adopted by the CBA on September 23, 2010.

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/Section 99.1).
- 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 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 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.

- f. **Reimbursement to the CBA for costs of investigation and prosecution as warranted by Business and Professions Code Section 5107.**

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 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, 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 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 must reimburse the CBA for all reasonable costs of investigation and prosecution prior to or upon reinstatement of respondent's revoked certificate under Section 5115 of the California Business and Professions Code.

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 engage in no activities for which certification is required (see model disciplinary orders). In addition, the respondent shall relinquish the certificate in question to the CBA and shall notify clients regarding the suspended status of the certificate, if directed to do so by the CBA.

### **III. EVIDENCE IN AGGRAVATION OF PENALTY**

The following are among aggravating circumstances to be considered by Administrative Law Judges 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 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 Administrative Law Judges in providing for penalties in proposed decisions:

1. The licensee has cooperated with the California Board of Accountancy'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 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**

The CBA's rehabilitation criteria, set forth in Section 99.1, are as follows:

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 or restoration of a revoked certificate under Section 5115 of the California Business and Professions Code, the CBA, in evaluating the rehabilitation of the applicant and his or her present eligibility for a certificate or permit, will consider the following criteria:

1. Nature and severity of the act(s) or offense(s);
2. 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. The time that has elapsed since commission of the act(s) or offense(s) referred to in subdivision (1) or (2);
4. The extent to which the applicant or respondent has complied with any terms of parole, probation, restitution, or any other sanctions lawfully imposed against the applicant or respondent;
5. If applicable, evidence of expungement proceedings pursuant to Section 1203.4 of the Penal Code;
6. Evidence, if any, of rehabilitation submitted by the applicant or respondent.

## **VI. ADMINISTRATIVE PENALTIES**

California Business and Professions Code Section 5116 et seq. allow 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 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 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 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 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 first disciplinary action and "subsequent violations" refers to any subsequent disciplinary actions.

Cost recovery ordered under California Business and Professions Code 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.

# VII. DISCIPLINARY GUIDELINES

The offenses and penalties are listed chronologically by statute number in the Business and Professions Code and by regulation number in Title 16 of the California Code of Regulations. The number in brackets following each condition of probation refers to the model disciplinary order so numbered (See **Model Disciplinary 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 [25]

Maximum Penalty - Revocation stayed, [1,2,4] 3 years probation

#### CONDITIONS OF PROBATION:

Required: 1. Standard Conditions of Probation [5-14]

If warranted: 1. Suspension [3] with/without stay [4]  
2. Supervised Practice [15]  
3. Restricted Practice [17]  
4. Ethics Continuing Education [20]  
5. Regulatory Review Course [21]  
6. Continuing Education Courses [25]  
7. Administrative Penalty not to exceed maximum set forth in Section 5116 [32]

(Reference Section 54.1)

#### **Section 5037(b)(1)(2) RETURN OF CLIENT DOCUMENTS**

Minimum Penalty - Continuing Education Courses [25]

Maximum Penalty - Revocation [1-2]

#### CONDITIONS OF PROBATION:

Required: 1. If revocation stayed [4], 3 years probation  
2. Standard Conditions of Probation [5-14]

If warranted: 1. Suspension [3] with/without stay [4]  
2. Supervised Practice [15]

3. Restitution [16]
4. Restricted Practice [17]
5. Engagement Letters [18]
6. Ethics Continuing Education [20]
7. Regulatory Review Course [21]
8. Continuing Education Courses [25]
9. Community Service – Free Services [29]
10. Administrative Penalty not to exceed maximum set forth in Section 5116 [32]
11. Conditions as appropriate relating to physical or mental disability or condition [31-36]

(Reference Section 68)

### **ARTICLE 3**

**Section 5050(a) PRACTICE WITHOUT PERMIT;  
TEMPORARY PRACTICE**

.....

Except as provided for in Section 5050(c), Section 5054, and Section 5096.12, applies to respondent who practices for a time without a valid license to practice or to respondent who practices without obtaining a practice privilege.

Minimum Penalty - Continuing Education Courses [25]  
Maximum Penalty - Revocation [1-2]

**CONDITIONS OF PROBATION:**

Required:           1. If revocation stayed [4], 3 years probation  
                          2. Standard Conditions of Probation [5-14]

If warranted:       1. Suspension [3] with/without stay [4]  
                          2. Restricted Practice [17]  
                          3. Ethics Continuing Education [20]  
                          4. Regulatory Review Course [21]  
                          5. Continuing Education Courses [25]

6. Active License Status [26]  
7. Administrative Penalty not to exceed maximum set forth in Section 5116 [32]

**Section 5050(c) PRACTICE WITHOUT PERMIT;  
TEMPORARY PRACTICE; FOREIGN ACCOUNTANTS**  
Applies to respondents licensed in a foreign country who are temporarily practicing in California and hold out as California licensees.

Minimum Penalty - Correction of Violation  
Maximum Penalty - Revoke authorization to practice

**Section 5054            PREPARATION OF TAX RETURNS BY INDIVIDUALS AND FIRMS  
                                  OUTSIDE THE STATE**

Minimum Penalty - Correction of Violation  
Maximum Penalty - Revoke authorization to practice

**Section 5055            TITLE OF CERTIFIED PUBLIC ACCOUNTANT/  
Section 5056            TITLE OF PUBLIC ACCOUNTANT**

(Applies to 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 [25]  
Maximum Penalty - Revocation [1-2]

**CONDITIONS OF PROBATION:**

Required:            1. If revocation stayed [4], 3 years probation  
                                  2. Standard Conditions of Probation [5-14]

If warranted:        1. Suspension [3] with/without stay [4]  
                                  2. Restricted Practice [17]  
                                  3. Ethics Continuing Education [20]  
                                  4. Regulatory Review Course [21]  
                                  5. Continuing Education Courses [25]  
                                  6. Active License Status [26]  
                                  7. Administrative Penalty not to exceed maximum set forth in  
                                  Section 5116 [32]

**Section 5058            USE OF CONFUSING TITLES OR DESIGNATIONS PROHIBITED**

Minimum Penalty - Continuing Education Courses [25]  
Maximum Penalty - Revocation stayed with actual suspension [1-4]

**CONDITIONS OF PROBATION:**

Required:            1. Standard Conditions of Probation [5-14]

If warranted:        1. Suspension [3] with/without stay [4]  
                                  2. Restricted Practice [17]  
                                  3. Ethics Continuing Education [20]  
                                  4. Regulatory Review Course [21]  
                                  5. Continuing Education Courses [25]

6. Administrative Penalty not to exceed maximum set forth in Section 5116 [32]

(Reference Section 2)

**Section 5058.1 TITLES IN CONJUNCTION WITH  
CERTIFIED PUBLIC ACCOUNTANT OR PUBLIC ACCOUNTANT**

Minimum Penalty - Continuing Education Courses [25]

Maximum Penalty - Revocation stayed with actual suspension [1-4]

CONDITIONS OF PROBATION:

Required: 1. Standard Conditions of Probation [5-14]

- If warranted:
1. Suspension [3] with/without stay [4]
  2. Restricted Practice [17]
  3. Ethics Continuing Education [20]
  4. Regulatory Review Course [21]
  5. Continuing Education Courses [25]
  6. Administrative Penalty not to exceed maximum set forth in Section 5116 [32]

**Section 5058.2 INACTIVE DESIGNATION**

Minimum Penalty - Correction of Violation

Maximum Penalty - Revocation stayed, 3 years probation [1-2,4]

CONDITIONS OF PROBATION:

Required: 1. Standard Conditions of Probation [5-14]

- If warranted:
1. Administrative Penalty not to exceed maximum set forth in Section 5116 [32]

## ARTICLE 3.5

### Section 5060      **NAME OF FIRM**

Minimum Penalty - Continuing Education Courses [25]

Maximum Penalty - Revocation stayed with actual suspension [1-4]

#### CONDITIONS OF PROBATION:

Required:      1. Standard Conditions of Probation [5-14]

If warranted:      1. Suspension [3] with/without stay [4]  
                         2. Restricted Practice [17]  
                         3. Ethics Continuing Education [20]  
                         4. Regulatory Review Course [21]  
                         5. Continuing Education Courses [25]  
                         6. Administrative Penalty not to exceed maximum set forth in  
                         Section 5116 [32]

(Reference Section 5072)

### Section 5061      **COMMISSIONS**

Minimum Penalty - Continuing Education [25]

Maximum Penalty - Revocation [1-2]

#### CONDITIONS OF PROBATION:

Required:      1. If revocation stayed [4], 3 years probation  
                         2. Standard Conditions of Probation [5-14]

If warranted:      1. Suspension [3] with/without stay [4]  
                         2. Supervised Practice [15]  
                         3. Restitution [16]  
                         4. Restricted Practice [17]  
                         5. Engagement Letters [18]  
                         6. Ethics Continuing Education [20]  
                         7. Regulatory Review Course [21]  
                         8. Continuing Education Courses [25]  
                         9. Community Service – Free Services [29]  
                         10. Administrative Penalty not to exceed maximum set forth in  
                         Section 5116 [32]

### Section 5062      **REPORT CONFORMING TO PROFESSIONAL STANDARDS**

Minimum Penalty - Continuing Education Courses [25]

Maximum Penalty - Revocation [1-2]

#### CONDITIONS OF PROBATION:

- Required:
1. If revocation stayed [4], 3 years probation
  2. Standard Conditions of Probation [5-14]
  3. Continuing Education Courses [25]
- If warranted:
1. Suspension [3] with/without stay [4]
  2. Supervised Practice [15]
  3. Restitution [16]
  4. Restricted Practice [17]
  5. Engagement Letters [18]
  6. Ethics Continuing Education [20]
  7. Regulatory Review Course [21]
  8. Peer Review [22]
  9. CPA Exam [23]
  10. Samples - Audits, Review or Compilation [27]
  11. Community Service – Free Services [29]
  12. Notice to Clients [31]
  13. Administrative Penalty not to exceed maximum set forth in Section 5116 [32]

(Reference 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 [5-14]
- If warranted:
1. Ethics Continuing Education [20]
  2. Regulatory Review Course [21]
  3. Community Service – Free Services [29]
  4. Administrative Penalty not to exceed maximum set forth in Section 5116 [32]

**Section 5063      REPORTABLE EVENTS**

Minimum Penalty - Correction of Violation and/or Continuing Education Courses [25]  
 Maximum Penalty - Revocation [1-2]

CONDITIONS OF PROBATION

- Required:
1. If revocation stayed [4], 3 years probation
  2. Standard Conditions of Probation [5-14]
- If warranted:
1. Suspension [3] with/without stay [4]

2. Supervised Practice [15]
3. Restricted Practice [17]
4. Ethics Continuing Education [20]
5. Regulatory Review Course [21]
6. Continuing Education Courses [25]
7. Samples – Audit, Review or Compilation [27]
8. Prohibition from Handling Funds [28]
9. Community Service – Free Services [29]
10. Administrative Penalty not to exceed maximum set forth in Section 5116 [32]
11. Conditions as appropriate relating to physical or mental disability or condition [31-36]

(Reference Sections 59, 60, 61)

### **Section 5063.3 CONFIDENTIAL INFORMATION DISCLOSURE**

Minimum Penalty - Continuing Education Courses [25]

Maximum Penalty - Revocation stayed; 90 day suspension, 3 years probation [1-4]

#### **CONDITIONS OF PROBATION:**

Required:

1. 3 years probation
2. Standard Conditions of Probation [5-14]

If warranted:

1. Suspension [3]
2. Supervised Practice [15]
3. Ethics Continuing Education [20]
4. Regulatory Review Course [21]
5. Continuing Education Courses [25]
6. Notice to Clients [31]
7. Administrative Penalty not to exceed maximum set forth in Section 5116 [32]

## **ARTICLE 4**

### **Section 5070.7 FAILURE TO RENEW WITHIN FIVE YEARS**

Minimum Penalty - Certificate canceled immediately and returned to the Board

Maximum Penalty - CPA Exam [23]

### **Section 5072(a) REQUIREMENTS FOR REGISTRATION AS A PARTNERSHIP**

Applies to licensee(s) in a partnership who practices for a time without partnership license (Section 5073) and subsequently renews, or to a partnership in practice without a license.

Minimum Penalty - Continuing Education Courses [25]

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 [5-14]

- If warranted:
1. Suspension [3] with/without stay [4]
  2. Restricted Practice [17]
  3. Ethics Continuing Education [20]
  4. Regulatory Review Course [21]
  5. Continuing Education Courses [25]
  6. Administrative Penalty not to exceed maximum set forth in Section 5116 [32]

(See also section on **Unlicensed Activities.**)

**Section 5073(d) PARTNERSHIP APPLICATIONS  
(ADMISSION OR WITHDRAWAL OF PARTNER)**

Minimum Penalty - Continuing Education Course [25]

Maximum Penalty - Revocation [1-2]

CONDITIONS OF PROBATION:

- Required:
1. If revocation stayed [4], 3 years probation
  2. Standard Conditions of Probation [5-14]

- If warranted:
1. Ethics Continuing Education [20]
  2. Regulatory Review Course [21]
  3. Administrative Penalty not to exceed maximum set forth in Section 5116 [32]

**Section 5076(a) PEER REVIEW**

Minimum Penalty - Correction of Violation

Maximum Penalty - Revocation [1-2]

CONDITIONS OF PROBATION:

- Required:
1. If revocation stayed [4], 3 years probation
  2. Standard Conditions of Probation [5-14]

- If warranted:
1. Suspension [3] with/without stay [4]
  2. Supervised Practice [15]
  3. Restricted Practice [17]
  4. Ethics Continuing Education [20]
  5. Regulatory Review Course [21]
  6. Continuing Education Courses [25]
  7. Sample – Audit, Review or Compilation [27]
  8. Notification to Clients/Cessation of Practice [31]
  9. Administrative Penalty not to exceed maximum set forth in Section 5116 [32]

(Reference Sections 40, 41, 43)

**Section 5076(f) PEER REVIEW – DOCUMENT SUBMISSION REQUIREMENT**

Minimum Penalty - Correction of Violation

Maximum Penalty - Revocation [1-2]

CONDITIONS OF PROBATION:

- Required:
1. If revocation stayed [4], 3 years probation
  2. Standard Conditions of Probation [5-14]

- If warranted:
1. Suspension [3] with/without stay [4]
  2. Supervised Practice [15]
  3. Restricted Practice [17]
  4. Ethics Continuing Education [20]
  5. Regulatory Review Course [21]
  6. Peer Review [22]
  7. Continuing Education Courses [25]
  8. Sample – Audit, Review or Compilation [27]
  9. Notification to Clients/Cessation of Practice [31]
  10. Administrative Penalty not to exceed maximum set forth in Section 5116 [32]

(Reference Section 46)

**Section 5078 OFFICES NOT UNDER PERSONAL MANAGEMENT OF CERTIFIED PUBLIC ACCOUNTANT OR PUBLIC ACCOUNTANT; SUPERVISION**

Minimum Penalty - Continuing education [25] 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 [10]

Maximum Penalty - Revocation [1-2]

CONDITIONS OF PROBATION:

- Required:
1. If revocation stayed [4], 3 years probation
  2. Standard Conditions of Probation [5-14]

- If warranted:
1. Suspension [3] with/without stay [4]
  2. Supervised Practice [15]
  3. Restricted Practice [17]
  4. Ethics Continuing Education [20]
  5. Regulatory Review Course [21]
  6. Continuing Education Courses [25]
  7. Administrative Penalty not to exceed maximum set forth in Section 5116 [32]

**Section 5079(a)(b)(d) NONLICENSEE OWNERSHIP OF FIRMS**

Minimum Penalty - Continuing Education [25] 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, 3 years probation
  2. Standard Conditions of Probation [5-14]

- If warranted:
1. Suspension [3] with/without stay [4]
  2. Restricted Practice [17]
  3. Ethics Continuing Education [20]
  4. Regulatory Review Course [21]
  5. Administrative Penalty not to exceed maximum set forth in Section 5116 [32]

(Reference 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 Section 5100 for applicable provisions

Maximum Penalty - Denial of admission to examination or revocation of license if issued

(Reference relevant section for discipline based upon nature of act.)

**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.

**Section 5088 INTERIM PRACTICE RIGHTS: OUT OF STATE CPA**

Minimum/Maximum Penalty - If Board rejects application, cease practice immediately. If practice continues, see provisions on **Unlicensed Activities**.

**Section 5095(a) MINIMUM NUMBER OF ATTEST SERVICES HOURS; ATTEST EXPERIENCE**

Minimum Penalty - Correction of Violation

Maximum Penalty - Revocation [1-2]

CONDITIONS OF PROBATION:

- Required:       1. If revocation stayed [4], 3 years probation  
                   2. Standard Conditions of Probation [5-14]
- If warranted:   1. Suspension [3] with/without stay [4]  
                   2. Restricted Practice [17]  
                   3. Ethics Continuing Education [20]  
                   4. Regulatory Review Course [21]  
                   5. CPA Exam [23]  
                   6. Continuing Education Courses [25]  
                   7. Active License Status [26]  
                   8. Notification to Clients/Cessation of Practice [31]  
                   9. Administrative Penalty not to exceed maximum set forth in  
                       Section 5116 [32]

## **ARTICLE 5.1: Practice Privilege**

### **~~Section 5096(e)(3) PRACTICE PRIVILEGE – PRACTICE FROM OFFICE IN THIS STATE~~**

~~Minimum Penalty – Revocation stayed [1-2, 4]; 3 years probation  
 Maximum Penalty – Revoke Practice Privilege [1-2]~~

#### CONDITIONS OF PROBATION

- ~~Required:       1. If revocation stayed [4], probation 3 to 5 years  
                   2. Suspension [3]  
                   3. Standard Conditions of Probation [5-14]~~

- ~~If warranted:   1. Ethics Continuing Education [20]  
                   2. Regulatory Review Course [21]  
                   3. Administrative Penalty not to exceed maximum set forth in  
                       Section 5116 [32]~~

### **~~Section 5096(e)(5) PRACTICE PRIVILEGE – COOPERATE WITH BOARD INQUIRY~~**

~~Minimum Penalty – Administrative Suspension pursuant to Section 5096.4; or Board approval  
 required before commencing practice under future practice privilege  
 Maximum Penalty – Revoke Practice Privilege [1-2]~~

#### CONDITIONS OF PROBATION

- ~~Required:       1. If revocation stayed [4], probation 3 to 5 years  
                   2. Suspension [3]  
                   3. Standard Conditions of Probation [5-14]~~

- ~~If warranted:   1. Ethics Continuing Education [20]  
                   2. Regulatory Review Course [21]  
                   3. Administrative Penalty not to exceed maximum set forth in  
                       Section 5116 [32]~~

**~~Section 5096(g)(1) PRACTICE PRIVILEGE – DISQUALIFYING CONDITIONS~~**

~~Minimum Penalty – Revocation stayed [1-2, 4]; 3 years probation~~

~~Maximum Penalty – Revoke Practice Privilege [1-2]~~

~~CONDITIONS OF PROBATION~~

~~Required: \_\_\_\_\_ 1. If revocation stayed [4], probation 3 to 5 years~~

~~\_\_\_\_\_ 2. Suspension [3]~~

~~\_\_\_\_\_ 3. Standard Conditions of Probation [5-14]~~

~~If warranted: \_\_\_\_\_ 1. Ethics Continuing Education [20]~~

~~\_\_\_\_\_ 2. Regulatory Review Course [21]~~

~~\_\_\_\_\_ 3. Administrative Penalty not to exceed maximum set forth in  
Section 5116 [32]~~

**~~Section 5096.5 PRACTICE PRIVILEGE – SIGN ATTEST REPORTS~~**

~~Minimum Penalty – Revocation stayed [1-2, 4]; 3 years probation~~

~~Maximum Penalty – Revoke Practice Privilege [1-2]~~

~~CONDITIONS OF PROBATION~~

~~Required: \_\_\_\_\_ 1. If revocation stayed [4], probation 3 to 5 years~~

~~\_\_\_\_\_ 2. Suspension [3]~~

~~\_\_\_\_\_ 3. Standard Conditions of Probation [5-14]~~

~~If warranted: \_\_\_\_\_ 1. Ethics Continuing Education [20]~~

~~\_\_\_\_\_ 2. Regulatory Review Course [21]~~

~~\_\_\_\_\_ 3. Administrative Penalty not to exceed maximum set forth in  
Section 5116 [32]~~

**~~Section 5096.12(a) PRACTICE PRIVILEGE – LIMITED FIRM PRACTICE~~**

~~(Applies to an out-of-state firm practicing through a practice privilege  
holder.)~~

~~Minimum Penalty – Revocation stayed [1-2, 4]; 3 years probation~~

~~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 [5-14]~~

~~If warranted: \_\_\_\_\_ 1. Suspension [3]~~

~~\_\_\_\_\_ 2. Ethics Continuing Education [20]~~

- 3. Regulatory Review Course [21]
- 4. Administrative Penalty not to exceed maximum set forth in Section 5116 [32]

**Section 5096.13 — FIRM INFORMATION**

Minimum Penalty — Correction of Violation  
Maximum Penalty — Revoke authorization to practice

**Section 5096(d)      PRACTICING THROUGH AN UNREGISTERED FIRM**

Minimum Penalty:      Revocation stayed [1-2, 4] 3 years probation  
Maximum Penalty:      Revoke Practice Privilege [1-2]

**CONDITIONS OF PROBATION:**

Required:              If revocation stayed [4], probation 3 to 5 years  
                                 Standard Conditions of Probation [ 5-11,13,14]

- If warranted:
- 1.                      Suspension [3]
  - 2.                      Ethics Continuing Education [20]
  - 3.                      Regulatory Review Course [21]
  - 4.                      Administrative Penalty [32]

**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] (Section 5096(g)).  
                                 3.                      Standard Conditions of Probation [5-11,13,14]

- If warranted:
- 1.                      Ethics Continuing Education [20]
  - 2.                      Regulatory Review Course [21]
  - 3.                      Administrative Penalty [32]

**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] (Section 5096(g)).  
3. Standard Conditions of Probation [5-11,13,14]

If warranted: 1. Ethics Continuing Education [20]  
2. Regulatory Review Course [21]  
3. Administrative Penalty [32]

**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] (Section 5096(g)).  
3. Standard Conditions of Probation [5-11,13,14]

If warranted: 1. Ethics Continuing Education [20]  
2. Regulatory Review Course [21]  
3. Administrative Penalty [32]

**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] (Section 5096(g)).  
3. Standard Conditions of Probation [5-11,13,14]

If warranted: 1. Ethics Continuing Education [20]  
2. Regulatory Review Course [21]  
3. Administrative Penalty [32]

**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(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] (Section 5096(g))  
3. Standard Conditions of Probation [5-11,13,14]

If warranted: 1. Ethics Continuing Education [20]  
2. Regulatory Review Course [21]  
3. Administrative Penalty [32]

**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] (Section 5096(i)(2))  
3. Standard Conditions of Probation [5-11,13,14]

If warranted: 1. Ethics Continuing Education [20]  
2. Regulatory Review Course [21]  
3. Administrative Penalty [32]

**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  
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 [5-11,13,14]

If warranted: 1. Suspension [3]



## 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 [25]

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 [5-14]

If warranted: 1. Suspension [3] with/without stay [4]  
2. Optional conditions which relate to underlying facts and circumstances;  
reference conditions listed in 5100 (a)-(j)  
3. Administrative Penalty not to exceed maximum set forth in  
Section 5116 [32]

### **Section 5100(a) CONVICTION OF ANY CRIME SUBSTANTIALLY RELATED TO THE QUALIFICATIONS, FUNCTIONS AND DUTIES OF A CPA/PA**

#### **FOR FELONY CONVICTIONS OR SEVERAL MISDEMEANOR CONVICTIONS:**

Minimum Penalty - Revocation stayed. Actual suspension from practice 120 days. Three  
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 [5-14]

If warranted: 1. Supervised Practice [15]  
2. Restitution [16]  
3. Restricted Practice [17]  
4. Engagement Letters [18]  
5. Ethics Continuing Education [20]  
6. Regulatory Review Course [21]  
7. CPA Exam [23] or Enrolled Agents Exam [24]  
8. Continuing Education Courses [25]  
9. Samples - Audit, Compilation or Review [27]  
10. Prohibition from Handling Funds [28]  
11. Community Service – Free Services [29]  
12. Administrative Penalty not to exceed maximum set forth in  
Section 5116 [32]  
13. Conditions as appropriate relating to physical or mental disability or  
condition [31-36]

**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 [5-14]

If warranted:       1. Ethics Continuing Education [20]  
                          2. Regulatory Review Course [21]  
                          3. Continuing Education Courses [25]  
                          4. Administrative Penalty not to exceed maximum set forth in Section 5116 [32]

**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

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 [5-14]

If warranted:       1. Supervised Practice [15]  
                          2. Restitution [16]  
                          3. Restricted Practice [17]  
                          4. Ethics Continuing Education [20]  
                          5. Regulatory Review Course [21]  
                          6. Peer Review [22]  
                          7. CPA Exam [23]  
                          8. Continuing Education Courses [25]  
                          9. Samples - Audit, Review or Compilation [27]  
                          10. Prohibition from Handling Funds [28]  
                          11. Community Service – Free Services [29]  
                          12. Notification to Clients [31]

13. Administrative Penalty not to exceed maximum set forth in Section 5116 [32]
14. Conditions as appropriate relating to physical or mental disability or condition [31-36]

**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 [5-14]

If warranted (include those related to underlying offense(s)):

1. Suspension [3] with/without stay [4]
2. Supervised Practice [15]
3. Restitution [16]
4. Restricted Practice [17]
5. Ethics Continuing Education [20]
6. Regulatory Review Course [21]
7. CPA Exam [23] or Enrolled Agents Exam [24]
8. Continuing Education Courses [25]
9. Samples - Audit, Review or Compilation [27]
10. Prohibition from Handling Funds [28]
11. Community Service – Free Services [29]
12. Notice to Clients [31]
13. Conditions as appropriate relating to physical or mental disability or condition [31-36]

**Section 5100(e) VIOLATION OF PROVISIONS OF SECTION 5097**

Minimum Penalty - Continuing Education Courses [25]  
 Maximum Penalty - Revocation [1-2]

**CONDITIONS OF PROBATION:**

- Required:
1. If revocation stayed [4], 3 years probation
  2. Standard Conditions of Probation [5-14]
  3. Continuing Education Courses [25]

- If warranted:
1. Suspension [3] with/without stay [4]
  2. Supervised Practice [15]

Restricted Practice [17]

4. Library Reference Material [19]
5. Ethics Continuing Education [20]
6. Regulatory Review Course [21]

7. Peer Review [22]
8. CPA Exam [23]
9. Samples - Audits, Review or Compilation [27]
10. Community Service – Free Services [29]
11. Notice to Clients [31]
12. Administrative Penalty not to exceed maximum set forth in Section 5116 [32]

**Section 5100(f) VIOLATIONS OF PROVISIONS OF SECTION 5120**

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
5060	NAME OF FIRM
5061	COMMISSIONS
5062	REPORT CONFORMING TO PROFESSIONAL STANDARDS

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  
 Maximum Penalty - Revocation [1-2]

**CONDITIONS OF PROBATION:**

Required: 1. If revocation stayed [4], 3 years probation

2. Standard Conditions of Probation [5-14]

If warranted (include those related to underlying offense(s)):

1. Suspension [3] with/without stay [4]
2. Supervised Practice [15]
3. Restitution [16]
4. Restricted Practice [17]
5. Ethics Continuing Education [20]
6. Regulatory Review Course [21]
7. CPA Exam [23] or Enrolled Agents Exam [24]
8. Continuing Education Courses [25]
9. Samples - Audit, Review or Compilation [27]
10. Prohibition from Handling Funds [28]
11. Community Service – Free Services [29]
12. Notice to Clients [31]
13. Administrative Penalty not to exceed maximum set forth in Section 5116 [32]
14. Conditions as appropriate relating to physical or mental disability or condition [31-36]

**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 [5-14]

- If warranted:
1. Supervised Practice [15]
  2. Restitution [16]
  3. Restricted Practice [17]
  4. Ethics Continuing Education [20]
  5. Regulatory Review Course [21]
  6. CPA Exam [23] or Enrolled Agents Exam [24]
  7. Continuing Education Courses [25]
  8. Prohibition from Handling Funds [28]
  9. Community Service – Free Services [29]
  10. Notice to Clients [31]
  11. Administrative Penalty not to exceed maximum set forth in Section 5116 [32]
  12. Conditions as appropriate relating to physical or mental disability or condition [31-36]

**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 [5-14]

If warranted:       1. Supervised Practice [15]  
                          2. Restitution [16]  
                          3. Restricted Practice [17]  
                          4. Engagement Letters [18]  
                          5. Ethics Continuing Education [20]  
                          6. Regulatory Review Course [21]  
                          7. CPA Exam [23] or Enrolled Agents Exam [24]  
                          8. Continuing Education Courses [25]  
                          9. Samples - Audit, Review or Compilation [27]  
                          10. Community Service – Free Services [29]  
                          11. Notice to Clients [31]  
                          12. Administrative Penalty not to exceed maximum set forth in  
                              Section 5116 [32]  
                          13. Conditions as appropriate relating to physical or mental disability or  
                              condition [31-36]

## **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 [5-14]

If warranted:       1. Supervised Practice [15]  
                          2. Restitution [16]  
                          3. Restricted Practice [17]  
                          4. Ethics Continuing Education [20]  
                          5. Regulatory Review Course [21]  
                          6. CPA Exam [23] or Enrolled Agents Exam [24]  
                          7. Continuing Education Courses [25]  
                          8. Prohibition from Handling Funds [28]

9. Notice to Clients [31]
10. Administrative Penalty not to exceed maximum set forth in Section 5116 [32]
11. Conditions as appropriate relating to physical or mental disability or condition [31-36]

**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 [5-14]

If warranted (include those related to underlying offense(s)):

1. Suspension [3] with/without stay [4]
2. Supervised Practice [15]
3. Restitution [16]
4. Restricted Practice [17]
5. Ethics Continuing Education [20]
6. Regulatory Review Course [21]
7. CPA Exam [23] or Enrolled Agents Exam [24]
8. Continuing Education Courses [25]
9. Samples - Audit, Review or Compilation [27]
10. Prohibition from Handling Funds [28]
11. Community Service – Free Services [29]
12. Notice to Clients [31]
13. Administrative Penalty not to exceed maximum set forth in Section 5116 [32]
14. Conditions as appropriate relating to physical or mental disability or condition [31-36]

**Section 5100(m) UNLAWFULLY ENGAGING IN PRACTICE OF PUBLIC ACCOUNTANCY IN ANOTHER STATE**

Minimum Penalty - Continuing Education Courses [25]

Maximum Penalty - Revocation [1-2]

CONDITIONS OF PROBATION:

- Required:
1. If revocation stayed [4], 3 years probation
  2. Standard Conditions of Probation [5-14]

If warranted:

1. Suspension [3] with/without stay [4]

2. Restricted Practice [17]
3. Ethics Continuing Education [20]
4. Regulatory Review Course [21]
5. Continuing Education Courses [25]
6. Active License Status [26]
7. Administrative Penalty not to exceed maximum set forth in Section 5116 [32]

**Section 5101            DISCIPLINE OF PARTNERSHIP**

Minimum Penalty - Probation; require CPA or PA partners to develop standards for supervision, and implement a practice plan; permit practice investigation within 3 months to ensure compliance [10]

Maximum Penalty - Revocation [1-2]

CONDITIONS OF PROBATION:

Required:            1. Standard Conditions of Probation [5-14]

If warranted:        1. Supervised Practice [15]  
                               2. Restitution [16]  
                               3. Restricted Practice [17]  
                               4. Engagement Letters [18]  
                               5. Administrative Penalty not to exceed maximum set forth in Section 5116 [32]

**Section 5104            RELINQUISHMENT OF CERTIFICATE OR PERMIT**

Minimum/Maximum Penalty - Revocation [1-2]

**Section 5105            DELINQUENCY IN PAYMENT OF RENEWAL FEE**

Minimum Penalty - Relinquish certificate [30] which will be reissued under Section 5070.6 guidelines (payment of renewal and delinquency fees and compliance with continuing education guidelines)

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, or revocation of license if issued.

If warranted:        1. Administrative Penalty not to exceed maximum set forth in Section 5116 [32]

## ARTICLE 7

### Sections 5120/5121 VIOLATIONS AS MISDEMEANOR/EVIDENCE OF VIOLATION

See Section 5100(f) and section on **Unlicensed Activities**.

## ARTICLE 9

### Section 5152 CORPORATION REPORTS

Minimum Penalty - Continuing Education for officers of corporation [25]

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 for officers of corporation [25]

Maximum Penalty - Suspend corporate accountancy registration and/or individual licenses for 90 days [3]

### Section 5154 DIRECTORS, SHAREHOLDERS, AND OFFICERS MUST BE LICENSED

Minimum Penalty - Continuing Education Courses [25]

Maximum Penalty - Revocation of corporate registration [1-2] and discipline of individual licenses

#### CONDITIONS OF PROBATION:

Required: 1. Standard Conditions of Probation [5-14]

If warranted: 1. Suspension [3] with/without stay [4]  
2. Ethics Continuing Education [20]  
3. Regulatory Review Course [21]  
4. Administrative Penalty not to exceed maximum set forth in Section 5116 [32]

### Section 5155 DISQUALIFIED SHAREHOLDER NONPARTICIPATION

Minimum Penalty - Continuing Education Courses [25]

Maximum Penalty - Revocation of individual and corporate license [1-2]

**CONDITIONS OF PROBATION:**

Required: 1. Standard Conditions of Probation [5-14]

If warranted: 1. Suspension [3] with/without stay [4]  
2. Ethics Continuing Education [20]  
3. Regulatory Review Course [21]  
4. Administrative Penalty not to exceed maximum set forth in Section 5116 [32]

**Section 5156 UNPROFESSIONAL CONDUCT  
(ACCOUNTANCY CORPORATION)**

Minimum Penalty - Continuing Education Courses [25] for licensee directors, shareholders, and/or officers of corporation

Maximum Penalty - Revocation of individual and corporate licenses [1-2]

**CONDITIONS OF PROBATION:**

Required: 1. Standard Conditions of Probation [5-14]

If warranted: 1. Suspension [3] with/without stay [4]  
2. Ethics Continuing Education [20] for licensee directors, shareholders and/or officers  
3. Regulatory Review Course [21] for licensee directors, shareholders and/or officers  
4. Community Service – Free Services [29]  
5. Administrative Penalty not to exceed maximum set forth in Section 5116 [32]

**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. Require CPA or PA to develop management plan; permit practice investigation within 3 months to ensure compliance with management requirement and plan [10,23]

Maximum Penalty - Revocation [1-2]

**CONDITIONS OF PROBATION:**

Required: 1. Standard Conditions of Probation [5-14]

If warranted: 1. Supervised Practice [15]  
2. Restitution [16]  
3. Restricted Practice [17]  
4. Engagement Letters [18]

5. Ethics Continuing Education [20]
6. Regulatory Review Course [21]
7. Administrative Penalty not to exceed maximum set forth in Section 5116 [32]
8. Conditions as appropriate relating to physical or mental disability or condition [31-36]

**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 [25]  
Maximum Penalty - 90 day Suspension [3]

**SECTION 5            OBSERVANCE OF RULES**

Minimum Penalty - Continuing Education Courses [25]  
Maximum Penalty - Revocation [1-2]

**CONDITIONS OF PROBATION:**

Required:            1. If revocation stayed [1-2, 4], 3 years probation  
                             2. Standard Conditions of Probation [5-14]

If warranted:        1. Ethics Continuing Education [20]  
                             2. Regulatory Review Course [21]  
                             3. Continuing Education Courses [25]  
                             4. Samples - Audit, Review or Compilation [27]  
                             5. Community Service – Free Services [29]  
                             6. Administrative Penalty not to exceed maximum set forth in  
                                      Section 5116 [32]

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 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 Section 5116  
[32]

**ARTICLE 3: PRACTICE PRIVILEGES**

**SECTION 20**

**NOTIFICATION OF CHANGE OF INFORMATION FOR REGISTERED OUT-OF-STATE ACCOUNTING FIRMS**

Minimum Penalty: Correction of Violation

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 [5-14]

- If warranted:
1. Administrative Penalty [32]

**ARTICLE 4: PRACTICE PRIVILEGE**

**Section 32** ~~————~~ **BOARD APPROVAL REQUIRED**

~~Minimum Penalty~~ ~~—~~ ~~Revocation stayed [1-2, 4]; 3 years probation~~

~~Maximum Penalty~~ ~~—~~ ~~Revoke Practice Privilege [1-2]~~

**CONDITIONS OF PROBATION**

- ~~Required:~~
- ~~1. If revocation stayed [4], 3 years probation~~
  - ~~2. Standard Conditions of Probation [5-14]~~

- ~~If warranted:~~
- ~~1. Suspension [3] with/without stay [4]~~
  - ~~2. Ethics Continuing Education [20]~~
  - ~~3. Regulatory Review Course [21]~~
  - ~~4. Administrative Penalty not to exceed maximum set forth in Section 5116 [32]~~

~~(Reference Section 5096(g))~~

**SECTION 33(a)** ~~————~~ **CHANGES TO INFORMATION ON NOTIFICATION**

~~Minimum Penalty~~ ~~—~~ ~~Correction of Violation~~

~~Maximum Penalty~~ ~~—~~ ~~Revoke Practice Privilege [1-2]~~

**CONDITIONS OF PROBATION**

- ~~Required:~~
- ~~1. If revocation stayed [4], 3 years probation~~
  - ~~2. Standard Conditions of Probation [5-14]~~

- ~~If warranted:~~
- ~~1. Suspension [3] with/without stay [4]~~
  - ~~2. Ethics Continuing Education [20]~~
  - ~~3. Regulatory Review Course [21]~~
  - ~~4. Administrative Penalty not to exceed maximum set forth in~~

~~Section 5116 [32]~~

**SECTION 35 CONTINUING EDUCATION REQUIREMENTS**

~~Minimum Penalty - Correction of Violation~~

~~Maximum Penalty - Revoke Practice Privilege [1-2]~~

CONDITIONS OF PROBATION

~~Required: 1. If revocation stayed [4], 3 years probation~~

~~2. Standard Conditions of Probation [5-14]~~

~~If warranted: 1. Suspension [3] with/without stay [4]~~

~~2. Ethics Continuing Education [20]~~

~~3. Regulatory Review Course [21]~~

~~4. Continuing Education Courses [25]~~

~~5. Administrative Penalty not to exceed maximum set forth in  
Section 5116 [32]~~

**ARTICLE 6: PEER REVIEW**

**SECTION 40(a)(b)(c) ENROLLMENT AND PARTICIPATION**

Minimum Penalty - Correction of Violation

Maximum Penalty - Revocation [1-2]

Required: 1. If revocation stayed [4], 3 years probation

2. Standard Conditions of Probation [5-14]

If warranted: 1. Suspension [3] with/without stay [4]

2. Supervised Practice [15]

3. Restricted Practice [17]

4. Ethics Continuing Education [20]

5. Regulatory Review Course [21]

6. Peer Review [22]

7. Continuing Education Courses [25]

8. Sample – Audit, Review or Compilation [27]

9. Notification to Clients/Cessation of Practice [31]

10. Administrative Penalty not to exceed maximum set forth in  
Section 5116 [32]

(Reference Section 5076(a))

**SECTION 41 FIRM RESPONSIBILITIES**

Minimum Penalty - Continuing Education Courses [25]

Maximum Penalty - Revocation [1-2]

Required: 1. If revocation stayed [4], 3 years probation

2. Standard Conditions of Probation [5-14]

- If warranted:
1. Ethics Continuing Education [20]
  2. Regulatory Review Course [21]
  3. Continuing Education Courses [25]
  4. Administrative Penalty not to exceed maximum set forth in Section 5116 [32]

(Reference Section 5076(a))

### **SECTION 43      EXTENSIONS**

- Minimum Penalty - Continuing Education Courses [25]  
Maximum Penalty - Revocation stayed with actual suspension [1-4]  
Required:
1. If revocation stayed [4], 3 years probation
  2. Standard Conditions of Probation [5-14]

- If warranted:
1. Ethics Continuing Education [20]
  2. Regulatory Review Course [21]
  3. Continuing Education Courses [25]
  4. Administrative Penalty not to exceed maximum set forth in Section 5116 [32]

### **SECTION 44      NOTIFICATION OF EXPULSION**

- Minimum Penalty - Correction of Violation  
Maximum Penalty - Revocation [1-2]  
Required:
1. If revocation stayed [4], 3 years probation
  2. Standard Conditions of Probation [5-14]

- If warranted:
1. Suspension [3] with/without stay [4]
  2. Supervised Practice [15]
  3. Restricted Practice [17]
  4. Ethics Continuing Education [20]
  5. Regulatory Review Course [21]
  6. Continuing Education Courses [25]
  7. Sample – Audit, Review or Compilation [27]
  8. Administrative Penalty not to exceed maximum set forth in Section 5116 [32]
  9. Conditions as appropriate relating to physical or mental disability or condition [31-36]

### **SECTION 45      REPORTING TO BOARD**

- Minimum Penalty - Correction of Violation  
Maximum Penalty - Revocation [1-2]

**CONDITIONS OF PROBATION:**

- Required:
1. If revocation stayed [1-2,4], 3 years probation
  2. Standard Conditions of Probation [5-14]

- If warranted:
1. Ethics Continuing Education [20]
  2. Regulatory Review Course [21]
  3. Continuing Education Courses [25]
  4. Administrative Penalty not to exceed maximum set forth in Section 5116 [32]

(Reference Section 5076(a))

**SECTION 46(a) DOCUMENT SUBMISSION REQUIREMENTS**

Applies to firms that receive a substandard peer review rating.

Minimum Penalty - Correction of Violation

Maximum Penalty - Revocation [1-2]

**CONDITIONS OF PROBATION:**

- Required:
1. If revocation stayed [1-2,4], 3 years probation
  2. Standard Conditions of Probation [5-14]

- If warranted:
1. Ethics Continuing Education [20]
  2. Regulatory Review Course [21]
  3. Continuing Education Courses [25]
  4. Administrative Penalty not to exceed maximum set forth in Section 5116 [32]

(Reference Section 5076(f))

**SECTION 46(b) DOCUMENT SUBMISSION REQUIREMENTS**

Applies to firms that receive a “pass” or “pass with deficiencies” peer review rating.

Minimum Penalty - Correction of Violation

Maximum Penalty - Revocation [1-2]

**CONDITIONS OF PROBATION:**

- Required:
1. If revocation stayed [1-2,4], 3 years probation
  2. Standard Conditions of Probation [5-14]

- If warranted:
1. Ethics Continuing Education [20]
  2. Regulatory Review Course [21]
  3. Administrative Penalty not to exceed maximum set forth in Section 5116 [32]

## **ARTICLE 9: RULES OF PROFESSIONAL CONDUCT**

### **SECTION 50 CLIENT NOTIFICATION**

Minimum Penalty – Correction of Violation

Maximum Penalty – Revocation stayed, suspension, 3 years probation [1-4]

#### CONDITIONS OF PROBATION

Required: 1. Standard Conditions of Probation [5-14]

If warranted:

1. Suspension [3] with/without stay [4]
2. Ethics Continuing Education [20]
3. Regulatory Review Course [21]
4. Administrative Penalty not to exceed maximum set forth in Section 5116 [32]

### **SECTION 51 FIRMS WITH NONLICENSEE OWNERS**

Minimum Penalty – Correction of Violation

Maximum Penalty – Revocation stayed, suspension, 3 years probation [1-4]

#### CONDITIONS OF PROBATION

Required: 1. Standard Conditions of Probation [5-14]

If warranted:

1. Suspension [3] with/without stay [4]
2. Restricted Practice [17]
3. Ethics Continuing Education [20]
4. Regulatory Review Course [21]
5. Administrative Penalty not to exceed maximum set forth in Section 5116 [32]

### **SECTION 51.1 NOTIFICATION OF NON-LICENSEE OWNERSHIP**

Minimum Penalty - Continuing Education [25] 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, 3 years probation
2. Standard Conditions of Probation [5-14]

If warranted:

1. Suspension [3] with/without stay [4]
2. Ethics Continuing Education [20]
3. Regulatory Review Course [21]
4. Administrative Penalty not to maximum set forth in Section 5116 [32]

**SECTION 52        RESPONSE TO BOARD INQUIRY**

Minimum Penalty - Continuing Education Courses [25]

Maximum Penalty - Revocation [1-2]

CONDITIONS OF PROBATION:

- Required:
1. If revocation stayed [1-2,4], 3 years probation
  2. Standard Conditions of Probation [5-14]

- If warranted:
1. Ethics Continuing Education [20]
  2. Regulatory Review Course [21]
  3. Continuing Education Courses [25]
  4. Community Service – Free Services [29]
  5. Administrative Penalty not to exceed maximum set forth in Section 5116 [32]

**SECTION 53        DISCRIMINATION PROHIBITED**

Minimum Penalty - Continuing Education Courses [25]

Maximum Penalty - Revocation stayed, 3 years probation [1-2,4]

CONDITIONS OF PROBATION:

- Required:
1. Standard Conditions of Probation [5-14]

- If warranted:
1. Ethics Continuing Education [20]
  2. Regulatory Review Course [21]
  3. Continuing Education Courses [25]
  4. Administrative Penalty not to exceed maximum set forth in Section 5116 [32]

**SECTION 54.1        DISCLOSURE OF CONFIDENTIAL INFORMATION PROHIBITED**

Minimum Penalty - Continuing Education Courses [25]

Maximum Penalty - Revocation stayed; 90 day suspension, 3 years probation [1-4]

CONDITIONS OF PROBATION:

- Required:
1. 3 years probation
  2. Standard Conditions of Probation [5-14]

- If warranted:
1. Suspension [3]
  2. Supervised Practice [15]
  3. Ethics Continuing Education [20]
  4. Regulatory Review Course [21]

5. Continuing Education Courses [25]
6. Notice to Clients [31]
7. Administrative Penalty not to exceed maximum set forth in Section 5116 [32]

(Reference Section 5037)

## **SECTION 54.2 RECIPIENTS OF CONFIDENTIAL INFORMATION**

Minimum Penalty - Continuing Education Courses [25]

Maximum Penalty - Revocation [1-2]

### CONDITIONS OF PROBATION:

- Required:
1. If revocation stayed, [1-2, 4], 3 years probation
  2. Standard Conditions of Probation [5-14]

- If warranted:
1. Supervised Practice [15]
  2. Ethics Continuing Education [20]
  3. Regulatory Review Course [21]
  4. Continuing Education Courses [25]
  5. Administrative Penalty not to exceed maximum set forth in Section 5116 [32]

## **SECTION 56 COMMISSIONS – BASIC DISCLOSURE REQUIREMENT**

Minimum Penalty – Correction of Violation and/or Continuing Education Courses [25]

Maximum Penalty – Revocation [1-2]

### CONDITIONS OF PROBATION

- Required:
1. If revocation stayed [4], 3 years probation
  2. Standard Conditions of Probation [5-14]

- If warranted:
1. Suspension [3] with/without stay [4]
  2. Supervised Practice [15]
  3. Restitution [16]
  4. Restricted Practice [17]
  5. Ethics Continuing Education [20]
  6. Regulatory Review Course [21]
  7. Continuing Education Courses [25]
  8. Administrative Penalty not to exceed maximum set forth in Section 5116 [32]

## **SECTION 56.1 COMMISSIONS – PROFESSIONAL SERVICES PROVIDED TO CLIENT**

Minimum Penalty – Correction of Violation and/or Continuing Education Courses [25]

Maximum Penalty – Revocation [1-2]

**CONDITIONS OF PROBATION**

- Required:
1. If revocation stayed [4], 3 years probation
  2. Standard Conditions of Probation [5-14]

- If warranted:
1. Suspension [3] with/without stay [4]
  2. Supervised Practice [15]
  3. Restitution [16]
  4. Restricted Practice [17]
  5. Ethics Continuing Education [20]
  6. Regulatory Review Course [21]
  7. Continuing Education Courses [25]
  8. Administrative Penalty not to exceed maximum set forth in Section 5116 [32]

**SECTION 57            INCOMPATIBLE OCCUPATIONS AND CONFLICT OF INTEREST**

- Minimum Penalty - Continuing Education Courses [25]  
Maximum Penalty - Revocation [1-2]

**CONDITIONS OF PROBATION:**

- Required:
1. If revocation stayed [1-2,4], 3 years probation
  2. Standard Conditions of Probation [5-14]

- If warranted:
1. Suspension [3] with/without stay [4]
  2. Supervised Practice [15]
  3. Restricted Practice [17]
  4. Engagement Letters [18]
  5. Ethics Continuing Education [20]
  6. Regulatory Review Course [21]
  7. Continuing Education Courses [25]
  8. Prohibition from Handling Funds [28]
  9. Community Service – Free Services [29]
  10. Administrative Penalty not to exceed maximum set forth in Section 5116 [32]

**SECTION 58            COMPLIANCE WITH STANDARDS**

- Minimum Penalty - Continuing Education Courses [25]  
Maximum Penalty - Revocation [1-2]

**CONDITIONS OF PROBATION:**

- Required:
1. If revocation stayed [1-2,4], 3 years probation
  2. Standard Conditions of Probation [5-14]

- If warranted:
1. Suspension [3] with/without stay [4]

2. Supervised Practice [15]
3. Restricted Practice [17]
4. Engagement Letters [18]
5. Ethics Continuing Education [20]
6. Regulatory Review Course [21]
7. Peer Review [22]
8. CPA Exam [23]
9. Continuing Education Courses [25]
10. Samples - Audit, Review or Compilation [27]
11. Administrative Penalty not to exceed maximum set forth in Section 5116 [32]

## **SECTION 59            REPORTING OF RESTATEMENTS**

Minimum Penalty - Correction of Violation and/or Continuing Education Courses [25]

Maximum Penalty - Revocation [1-2]

### CONDITIONS OF PROBATION

- Required:
1. If revocation stayed [4], 3 years probation
  2. Standard Conditions of Probation [5-14]

- If warranted:
1. Suspension [3] with/without stay [4]
  2. Supervised Practice [15]
  3. Restricted Practice [17]
  4. Ethics Continuing Education [20]
  5. Regulatory Review Course [21]
  6. Continuing Education Courses [25]
  7. Community Service – Free Services [29]
  8. Administrative Penalty not to exceed maximum set forth in Section 5116 [32]

(Reference Section 5063)

## **SECTION 60            REPORTING OF INVESTIGATIONS BY THE PUBLIC COMPANY ACCOUNTING OVERSIGHT BOARD**

Minimum Penalty - Correction of Violation and/or Continuing Education Courses [25]

Maximum Penalty - Revocation [1-2]

### CONDITIONS OF PROBATION

- Required:
1. If revocation stayed [4], 3 years probation
  2. Standard Conditions of Probation [5-14]

- If warranted:
1. Suspension [3] with/without stay [4]
  2. Supervised Practice [15]
  3. Restricted Practice [17]
  4. Ethics Continuing Education [20]
  5. Regulatory Review Course [21]

6. Continuing Education Courses [25]
7. Community Service – Free Services [29]
8. Administrative Penalty not to exceed maximum set forth in Section 5116 [32]

(Reference Section 5063)

**SECTION 61 THE REPORTING OF SETTLEMENTS, ARBITRATION AWARDS, AND JUDGMENTS**

Minimum Penalty - Correction of Violation and/or Continuing Education Courses [25]  
 Maximum Penalty - Revocation [1-2]

CONDITIONS OF PROBATION

- Required:
1. If revocation stayed [4], 3 years probation
  2. Standard Conditions of Probation [5-14]

- If warranted:
1. Suspension [3] with/without stay [4]
  2. Supervised Practice [15]
  3. Restricted Practice [17]
  4. Engagement Letters [18]
  5. Ethics Continuing Education [20]
  6. Regulatory Review Course [21]
  7. Continuing Education Courses [25]
  8. Community Service – Free Services [29]
  9. Administrative Penalty not to exceed maximum set forth in Section 5116 [32]

(Reference Section 5063)

**SECTION 62 CONTINGENT FEES**

Minimum Penalty - Correction of Violation  
 Maximum Penalty - Revocation [1-2]

CONDITIONS OF PROBATION:

- Required:
1. If revocation stayed [1-2,4], 3 years probation
  2. Standard Conditions of Probation [5-14]

- If warranted:
1. Suspension [3] with/without stay [4]
  2. Supervised Practice [15]
  3. Restitution [16]
  4. Restricted Practice [17]
  5. Engagement Letters [18]
  6. Ethics Continuing Education [20]
  7. Regulatory Review Course [21]
  8. Continuing Education Courses [25]
  9. Community Service – Free Services [29]

10. Administrative Penalty not to exceed maximum set forth in Section 5116 [32]

### **SECTION 63            ADVERTISING**

Minimum Penalty - Correction of Violation and/or Continuing Education Courses [25]

Maximum Penalty - Revocation [1-2]

#### CONDITIONS OF PROBATION:

Required:            1. If revocation stayed [1-2,4], 3 years probation  
                          2. Standard Conditions of Probation [5-14]

If warranted:        1. Suspension [3] with/without stay [4]  
                          2. Ethics Continuing Education [20]  
                          3. Regulatory Review Course [21]  
                          4. Community Service – Free Services [29]  
                          5. Administrative Penalty not to exceed maximum set forth in Section 5116 [32]

### **SECTION 65            INDEPENDENCE**

Minimum Penalty - Correction of Violation and/or Continuing Education Courses [25]

Maximum Penalty - Revocation [1-2]

#### CONDITIONS OF PROBATION:

Required:            1. If revocation stayed [1-2,4], probation of 3 to 5 years  
                          2. Standard Conditions of Probation [5-14]

If warranted:        1. Suspension [3] with/without stay [4]  
                          2. Supervised Practice [15]  
                          3. Restitution [16]  
                          4. Restricted Practice [17]  
                          5. Engagement Letters [18]  
                          6. Ethics Continuing Education [20]  
                          7. Regulatory Review Course [21]  
                          8. Peer Review [22]  
                          9. CPA Exam [23]  
                          10. Samples - Audit, Review or Compilation [27]  
                          11. Administrative Penalty not to exceed maximum set forth in Section 5116 [32]

### **SECTION 67            APPROVAL OF USE OF FICTITIOUS NAME**

Minimum Penalty - Correction of Violation

Maximum Penalty - Revocation stayed, 90 day suspension, 3 years probation [1-4]

**CONDITIONS OF PROBATION:**

Required: 1. Standard Conditions of Probation [5-14]

If warranted: 1. Ethics Continuing Education [20]  
2. Regulatory Review Course [21]  
3. Community Service – Free Services [29]  
4. Administrative Penalty not to exceed maximum set forth in Section 5116 [32]

**SECTION 68 RETENTION OF CLIENT'S RECORDS**

Minimum Penalty - Continuing Education Courses [25]

Maximum Penalty - Revocation [1-2]

**CONDITIONS OF PROBATION:**

Required: 1. If revocation stayed [1-2,4], 3 years probation  
2. Standard Conditions of Probation [5-14]

If warranted: 1. Suspension [3] with/without stay [4]  
2. Supervised Practice [15]  
3. Restitution [16]  
4. Restricted Practice [17]  
5. Engagement Letters [18]  
6. Ethics Continuing Education [20]  
7. Regulatory Review Course [21]  
8. Continuing Education Courses [25]  
9. Community Service – Free Services [29]  
10. Administrative Penalty not to exceed maximum set forth in Section 5116 [32]  
11. Conditions as appropriate relating to physical or mental disability or condition [31-36]

(Reference Section 5037)

**SECTION 68.1 WORKING PAPERS DEFINED; RETENTION**

Minimum Penalty - Continuing Education Courses [25]

Maximum Penalty - Revocation [1-2]

**CONDITIONS OF PROBATION:**

Required: 1. If revocation stayed [1-2,4], 3 years probation  
2. Standard Conditions of Probation [5-14]

If warranted: 1. Suspension [3] with/without stay [4]  
2. Restitution [16]  
3. Restricted Practice [17]  
4. Engagement Letters [18]  
5. Ethics Continuing Education [20]

6. Regulatory Review Course [21]
7. Continuing Education Courses [25]
8. Community Service – Free Services [29]
9. Administrative Penalty not to exceed maximum set forth in Section 5116 [32]
10. Conditions as appropriate relating to physical or mental disability or condition [31-36]

## **SECTION 68.2 COMPONENTS OF AUDIT DOCUMENTATION**

Minimum Penalty - Continuing Education Courses [25]

Maximum Penalty - Revocation [1-2]

### CONDITIONS OF PROBATION:

- Required:
1. If revocation stayed [4], 3 years probation
  2. Standard Conditions of Probation [5-14]
  3. Continuing Education Courses [25]

- If warranted:
1. Suspension [3] with/without stay [4]
  2. Supervised Practice [15]
  3. Restricted Practice [17]
  4. Ethics Continuing Education [20]
  5. Regulatory Review Course [21]
  6. Peer Review [22]
  7. CPA Exam [23]
  8. Samples - Audits, Review or Compilation [27]
  9. Community Service – Free Services [29]
  10. Notice to Clients [31]
  11. Administrative Penalty not to exceed maximum set forth in Section 5116 [32]

(Reference Section 5097)

## **SECTION 68.3 RETENTION PERIOD FOR AUDIT DOCUMENTATION**

Minimum Penalty - Continuing Education Courses [25]

Maximum Penalty - Revocation [1-2]

### CONDITIONS OF PROBATION:

- Required:
1. If revocation stayed [4], 3 years probation
  2. Standard Conditions of Probation [5-14]
  3. Continuing Education Courses [25]

- If warranted:
1. Suspension [3] with/without stay [4]
  2. Supervised Practice [15]
  3. Restricted Practice [17]
  4. Library Reference Material [19]

5. Ethics Continuing Education [20]
6. Regulatory Review Course [21]
7. Peer Review [22]
8. CPA Exam [23]
9. Samples - Audits, Review or Compilation [27]
10. Community Service – Free Services [29]
11. Notice to Clients [31]
12. Administrative Penalty not to exceed maximum set forth in Section 5116 [32]

(Reference Section 5097)

#### **SECTION 68.4 CHANGES IN AUDIT DOCUMENTATION AFTER ISSUANCE OF REPORT**

Minimum Penalty - Continuing Education Courses [25]

Maximum Penalty - Revocation [1-2]

##### CONDITIONS OF PROBATION:

- Required:
1. If revocation stayed [4], 3 years probation
  2. Standard Conditions of Probation [5-14]
  3. Continuing Education Courses [25]

- If warranted:
1. Suspension [3] with/without stay [4]
  2. Supervised Practice [15]
  3. Restricted Practice [17]
  4. Library Reference Material [19]
  5. Ethics Continuing Education [20]
  6. Regulatory Review Course [21]
  7. Peer Review [22]
  8. CPA Exam [23]
  7. Samples - Audits, Review or Compilation [27]
  8. Community Service – Free Services [29]
  9. Notice to Clients [31]
  10. Administrative Penalty not to exceed maximum set forth in Section 5116 [32]

(Reference Section 5097)

#### **SECTION 68.5 AUDIT DOCUMENTATION RETENTION AND DESTRUCTION POLICY**

Minimum Penalty - Continuing Education Courses [25]

Maximum Penalty - Revocation [1-2]

##### CONDITIONS OF PROBATION:

- Required:
1. If revocation stayed [4], 3 years probation
  2. Standard Conditions of Probation [5-14]
  3. Continuing Education Courses [25]

- If warranted:
1. Suspension [3] with/without stay [4]
  2. Supervised Practice [15]
  3. Restricted Practice [17]
  4. Library Reference Material [19]
  5. Ethics Continuing Education [20]
  6. Regulatory Review Course [21]
  7. Peer Review [22]
  8. CPA Exam [23]
  9. Samples - Audits, Review or Compilation [27]
  10. Community Service – Free Services [29]
  11. Notice to Clients [31]
  12. Administrative Penalty not to exceed maximum set forth in Section 5116 [32]

(Reference Section 5097)

## **SECTION 69 CERTIFICATION OF APPLICANT'S EXPERIENCE**

Minimum Penalty - Correction of Violation

Maximum Penalty - Revocation [1-2]

### CONDITIONS OF PROBATION:

- Required:
1. If revocation stayed [1-2,4], 3 years probation
  2. Standard Conditions of Probation [5-14]

- If warranted:
1. Suspension [3] with/without stay [4]
  2. Supervised Practice [15]
  3. Ethics Continuing Education [20]
  4. Regulatory Review Course [21]
  5. Community Service – Free Services [29]
  6. Administrative Penalty not to exceed maximum set forth in Section 5116 [32]

## **ARTICLE 11: ACCOUNTANCY CORPORATION RULES**

### **SECTION 75.8 SECURITY FOR CLAIMS AGAINST AN ACCOUNTANCY CORPORATION**

Minimum Penalty - Correction of Violation

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 [5-14]

- If warranted:
1. Supervised Practice [15]
  2. Restitution [16]

3. Restricted Practice [17]
4. Ethics Continuing Education [20]
5. Regulatory Review Course [21]
6. Continuing Education Courses [25]
7. Samples - Audit, Review or Compilation [27]
8. Prohibition from Handling Funds [28]
9. Community Service – Free Services [29]
10. Notification to Clients [31]
11. Administrative Penalty not to exceed maximum set forth in Section 5116 [32]

**SECTION 75.9      SHARES: OWNERSHIP AND TRANSFER**

Minimum Penalty - Correction of Violation

Maximum Penalty - Revocation stayed, 90 day suspension, 3 years probation [1-4]

CONDITIONS OF PROBATION:

Required:            1. Standard Conditions of Probation [5-14]

If warranted:        1. Suspension [3] with/without stay [4]  
                               2. Restricted Practice [17]  
                               3. Ethics Continuing Education [20]  
                               4. Regulatory Review Course [21]  
                               5. Administrative Penalty not to exceed maximum set forth in Section 5116 [32]

**SECTION 75.11(b) CERTIFICATION OF REGISTRATION; CONTINUING VALIDITY; NOTIFICATION OF NAME AND ADDRESS CHANGES**

Minimum Penalty - Correction of Violation

Maximum Penalty - Revocation stayed, 90 day suspension, 3 years probation [1-4]

CONDITIONS OF PROBATION:

Required:            1. Standard Conditions of Probation [5-14]

If warranted:        1. Suspension [3] with/without stay [4]  
                               2. Restricted Practice [17]  
                               3. Ethics Continuing Education [20]  
                               4. Regulatory Review Course [21]  
                               5. Administrative Penalty not to exceed maximum set forth in Section 5116 [32]

**ARTICLE 12: CONTINUING EDUCATION RULES**

**SECTION 81(a)      CONTINUING EDUCATION REQUIREMENTS**

## FOR RENEWING AN EXPIRED LICENSE

Minimum Penalty – Correction of Violation and/or Continuing Education Courses [25]

Maximum Penalty – Revocation [1-2]

### CONDITIONS OF PROBATION

Required:           1. If revocation stayed [4], 3 years probation  
                          2. Standard Conditions of Probation [5-14]

If warranted:       1. Suspension [3] with/without stay [4]  
                          2. Supervised Practice [15]  
                          3. Restricted Practice [17]  
                          4. Ethics Continuing Education [20]  
                          5. Regulatory Review Course [21]  
                          6. Continuing Education Courses [25]  
  
                          7. Samples – Audit, Review or Compilation [27]  
                          8. Administrative Penalty not to exceed maximum set forth in  
                              Section 5116 [32]

## **SECTION 87           BASIC REQUIREMENTS (Continuing Education)**

Minimum Penalty – Correction of Violation and/or Continuing Education Courses [25]

Maximum Penalty – Revocation [1-2]

### CONDITIONS OF PROBATION

Required:           1. If revocation stayed [4], 3 years probation  
                          2. Standard Conditions of Probation [5-14]

If warranted:       1. Suspension [3] with/without stay [4]  
                          2. Supervised Practice [15]  
                          3. Restricted Practice [17]  
                          4. Ethics Continuing Education [20]  
                          5. Regulatory Review Course [21]  
                          6. Continuing Education Courses [25]  
                          7. Samples – Audit, Review or Compilation [27]  
                          8. Administrative Penalty not to exceed maximum set forth in  
                              Section 5116 [32]

## **SECTION 87.5       ADDITIONAL CONTINUING EDUCATION REQUIREMENTS**

Minimum Penalty - Correction of Violation

Maximum Penalty - Revocation stayed, 3 years probation [1-2,4]

### CONDITIONS OF PROBATION:

Required:           1. Standard Conditions of Probation [5-14]

- If warranted:
1. Ethics Continuing Education [20]
  2. Regulatory Review Course [21]
  3. Continuing Education Courses [25]
  4. Active License Status [26]
  5. Samples - Audit, Review or Compilation [27]
  6. Administrative Penalty not to exceed maximum set forth in Section 5116 [32]

**SECTION 87.6 RECORDS REVIEW  
CONTINUING EDUCATION REQUIREMENTS**

Minimum Penalty - Correction of Violation

Maximum Penalty - Revocation stayed, 3 years probation [1-2,4]

CONDITIONS OF PROBATION:

Required: 1. Standard Conditions of Probation [5-14]

- If warranted:
1. Ethics Continuing Education [20]
  2. Regulatory Review Course [21]
  3. Continuing Education Courses [25]
  4. Samples - Audit, Review or Compilation [27]
  5. Administrative Penalty not to exceed maximum set forth in Section 5116 [32]

**SECTION 87.8 REGULATORY REVIEW COURSE**

Minimum Penalty - Correction of Violation

Maximum Penalty - Revocation stayed, 3 years probation [1-2,4]

CONDITIONS OF PROBATION:

Required: 1. Standard Conditions of Probation [5-14]

- If warranted:
1. Ethics Continuing Education [20]
  2. Continuing Education Courses [25]
  3. Administrative Penalty not to exceed maximum set forth in Section 5116 [32]

**SECTION 89 CONTROL AND REPORTING**

Minimum Penalty - Correction of Violation

Maximum Penalty - Revocation [1-2]

CONDITIONS OF PROBATION:

Required: 1. If revocation stayed [1-2, 4], 3 years probation

2. Standard Conditions of Probation [5-14]

- If warranted:
1. Ethics Continuing Education [20]
  2. Regulatory Review Course [21]
  3. Continuing Education Courses [25]
  4. Administrative Penalty not to exceed maximum set forth in Section 5116 [32]

## **SECTION 89.1      REPORTS**

Minimum Penalty - Correction of Violation

Maximum Penalty - Revocation stayed, 3 years probation [1-2,4]

### CONDITIONS OF PROBATION:

- Required:
1. Standard Conditions of Probation [5-14]

- If warranted:
1. Ethics Continuing Education [20]
  2. Regulatory Review Course [21]
  3. Continuing Education Courses [25]
  4. Samples - Audit, Review or Compilation [27]
  5. Administrative Penalty not to exceed maximum set forth in Section 5116 [32]

## **SECTION 90      EXCEPTIONS AND EXTENSIONS**

Minimum Penalty – Continuing Education [25]

Maximum Penalty – Revocation [1-2]

### CONDITIONS OF PROBATION

- Required:
1. If revocation stayed [4] 3 years probation
  2. Standard Conditions of Probation [5-14]

- If warranted:
1. Suspension [3] with/without stay [4]
  2. Supervised Practice [15]
  3. Restricted Practice [17]
  4. Ethics Continuing Education [20]
  5. Regulatory Review Course [21]
  6. Continuing Education Courses [25]
  7. Samples – Audit, Review or Compilation [27]
  8. Administrative Penalty not to exceed maximum set forth in Section 5116 [32]

## **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 [5-14]
  2. Restitution [16]
  3. Compliance with Citation Abatement Order and/or Fine
- If warranted:
1. Administrative Penalty not to exceed maximum set forth in Section 5116 [32]

## **VIOLATION OF PROBATION**

Minimum penalty - Citation and Fine (13)

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 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**

**Board 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.**

**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 Section 5122 immediately following).

## **INJUNCTIONS**

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 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 DISCIPLINARY ORDERS

1. **Revocation - Single Cause:**

\_\_\_\_\_ License No. \_\_\_\_\_ issued  
(Ex: Certified Public Accountant) (Ex: 00000)  
to respondent \_\_\_\_\_ is revoked.  
(Name)

2. **Revocation - Multiple Causes:**

\_\_\_\_\_ License No. \_\_\_\_\_ issued to respondent \_\_\_\_\_ is revoked  
pursuant to Determination(s) of Issues \_\_\_\_\_ separately and for all of them.

3. **Suspension:**

\_\_\_\_\_ License No. \_\_\_\_\_ issued to respondent \_\_\_\_\_ is suspended for  
. During the period of suspension the 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 5051.

4. **Standard Stay Order:**

However, \_\_\_\_\_ (revocation/suspension) \_\_\_\_\_ is stayed and respondent is placed on  
probation for \_\_\_\_\_ years upon the following terms and conditions:

## **STANDARD CONDITIONS OF PROBATION (TO BE INCLUDED IN ALL CASES OF PROBATION)**

**5. 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.

**6. Cost Reimbursement**

Respondent shall reimburse the Board \$ \_\_\_\_\_ for its investigation and prosecution costs. The payment shall be made within \_\_ days/months of the date the Board'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].

**7. Submit Written Reports**

Respondent shall submit, within 10 days of completion of the quarter, written reports to the Board on a form obtained from the Board. The 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 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 or its representatives.

**8. Personal Appearances**

Respondent shall, during the period of probation, appear in person at interviews/meetings as directed by the Board or its designated representatives, provided such notification is accomplished in a timely manner.

**9. Comply With Probation**

Respondent shall fully comply with the terms and conditions of the probation imposed by the Board and shall cooperate fully with representatives of the California Board of Accountancy in its monitoring and investigation of the respondent's compliance with probation terms and conditions.

**10. Practice Investigation**

Respondent shall be subject to, and shall permit, a practice investigation of the respondent's professional practice. Such a practice investigation shall be conducted by representatives of the Board, provided notification of such review is accomplished in a timely manner.

**11. Comply With Citations**

Respondent shall comply with all final orders resulting from citations issued by the California Board of Accountancy.

**12. Tolling of Probation for Out-of-State Residence/Practice**

In the event respondent should leave California to reside or practice outside this state, respondent must notify the Board 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 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 Board.

**13. Violation of Probation**

If respondent violates probation in any respect, the Board, after giving 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 during probation, the Board 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 95, to a licensee for a violation of a term or condition contained in a decision placing that licensee on probation.

**14. Completion of Probation**

Upon successful completion of probation, respondent's license will be fully restored.

## **OPTIONAL CONDITIONS OF PROBATION (To Be Included In Cases Where Appropriate)**

**15. Supervised Practice**

Within thirty days of the effective date of this decision, respondent shall submit to the Board 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 Board or its designee. Respondent shall pay all costs for such monitoring.

**16. Restitution**

Respondent shall make restitution to \_\_\_\_\_ in the amount of \$\_\_\_\_\_ and shall provide the Board with a written release from \_\_\_\_\_ attesting that full restitution has been paid. Restitution shall be completed before the termination of probation.

**17. Restricted Practice**

Respondent shall be prohibited from \_\_\_\_\_ (performing certain types of engagements such as audits, reviews, compilations, or attestation engagements, etc.), and/or from practice in \_\_\_\_\_ (certain specialty areas, i.e. bookkeeping, write-up, tax, auditing, etc.).

**18. Engagement Letters**

Respondent shall use engagement letters with each engagement accepted during probation and shall provide copies of same to the Board or its designee upon request.

**19. 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 or its designee upon reasonable notice.

**20. Ethics Continuing Education**

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 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 no later than 100 days prior to the termination of probation shall constitute a violation of probation.

## **21. Regulatory Review Course**

Respondent shall complete a CBA-approved course on the provisions of the California Accountancy Act and the California Board of Accountancy 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) hours.

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 no later than 100 days prior to the termination of probation shall constitute a violation of probation.

## **22. Peer Review**

During the period of probation, all audit, review, and compilation reports and work papers shall be subject to peer review by a certified peer reviewer at 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.

Upon completion of the peer review, respondent shall submit a copy of the report with the reviewer's conclusions and findings to the Board.

## **23. CPA Exam**

Respondent shall take and pass the (section) of the CPA examination (within a given period of time - 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 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 exam, 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.

## **24. 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.

**25. Continuing Education Courses**

Respondent shall complete and provide proper documentation of (specified) professional education courses within (a designated time). This (shall be/shall not be) in addition to continuing education requirements for relicensing.

OR

Respondent shall complete professional education courses as specified by the Board or its designee at the time of respondent's first probation appearance. The professional education courses shall be completed within a period of time designated and specified in writing by the Board or its designee, which time frame shall be incorporated as a condition of this probation. This (shall be/shall not be) in addition to continuing education requirements for relicensing.

Failure to satisfactorily complete the required courses as scheduled or failure to complete same no later than 100 days prior to the termination of probation shall constitute a violation of probation.

**26. Active License Status**

Respondent shall at all times maintain an active license status with the Board, including during any period of suspension. If the license is expired at the time the Board's decision becomes effective, the license must be renewed within 30 days of the effective date of the decision.

**27. Samples - Audit, Review or Compilation**

During the period of probation, if the respondent undertakes an audit, review or compilation engagement, the respondent shall submit to the Board as an attachment to the required quarterly report a listing of the same. The Board 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 Board or its designee upon request.

**28. Prohibition from Handling Funds**

During the period of probation the 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.

**29. Community Service - Free Services**

Respondent shall participate in a community service program as directed by the Board or its designee in which 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 is notified of the program and to be completed no later than \_\_\_\_\_. Respondent shall submit proof of compliance with this requirement to the Board. Respondent is entirely responsible for his or her

performance in the program and the Board assumes neither express nor implied responsibility for respondent's performance nor for the product or services rendered.

**30. Relinquish Certificate**

Respondent shall relinquish and shall forward or deliver the certificate or permit to practice to the Board office within 10 days of the effective date of this decision and order.

**31. Notification to Clients/Cessation of Practice**

In orders that provide for a cessation or suspension of practice, respondent shall comply with procedures provided by the California Board of Accountancy or its designee regarding notification to, and management of, clients.

**32. Administrative Penalty**

Respondent shall pay to the Board 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's decision is final.

**33. Medical Treatment**

Respondent shall undergo and continue treatment by a licensed physician of respondent's choice and approved by the Board or its designee until the treating physician certifies in writing in a report to the Board or its designee that treatment is no longer necessary. Respondent shall have the treating physician submit reports to the Board at intervals determined by the Board or its designee. Respondent is responsible for costs of treatment and reports.

(Optional)

Respondent shall not engage in practice until notified by the Board of its determination that respondent is physically fit to practice.

**34. Psychotherapist**

Respondent shall undergo and continue treatment by a licensed psychotherapist of respondent's choice and approved by the Board or its designee until the treating psychotherapist certifies in writing in a report to the Board or its designee that treatment is no longer necessary. Respondent shall have the treating psychotherapist submit reports to the Board at intervals determined by the Board or its designee. Respondent is responsible for costs of treatment and reports.

(Optional)

Respondent shall not engage in practice until notified by the Board of its determination that respondent is mentally fit to practice.

**35. Rehabilitation Program/Chemical Dependence**

Respondent shall successfully complete or shall have successfully completed a rehabilitation program for chemical dependence that the Board 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, within a reasonable period of time as determined by the Board or its designee but not exceeding 90 days of the effective

date of the decision, shall be enrolled in a program. In addition, respondent must attend support groups, (e.g. Narcotics Anonymous, Alcoholic Anonymous etc.), as directed by the Board or its designee. Respondent is responsible for all costs of such a program.

**36. 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.

**37. Drugs - Screening**

Respondent shall participate or shall have participated in a drug screening program acceptable to the Board and shall have reports submitted by the program. Respondent is responsible for all costs associated with said screening and reporting.

**38. Biological Fluid Testing**

Respondent, at any time during the period of probation, shall fully cooperate with the Board 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 Board 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 33-38 shall be used when evidence indicates respondent may have physical or mental ailment(s) or conditions(s) which contributed to the violation or when the same are alleged by respondent to be a contributing factor to the violation(s).



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**CBA Item VIII.B.**  
March 21-22, 2013

**Discussion and Possible Action to Adopt or Amend Previously Proposed Text at Title 16, CCR Sections 15, 15.1, 15.2, 15.3, 15.4, 70, 71, and 87.1, and Adopt New Article 2.5 Regarding Retired Status**

**Presented by:** Matthew Stanley, Regulation Analyst

**Date:** February 25, 2013

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**Purpose of the Item**

The purpose of this agenda item is to provide an opportunity for the California Board of Accountancy (CBA) to make changes to its Retired Status rulemaking in order to comply with case law.

**Action(s) Needed**

The CBA is being asked to adopt the proposed regulatory changes.

**Background**

In late January, the Office of Administrative Law (OAL) disapproved the CBA's Retired Status rulemaking. The basis for this decision was founded on a 2011 California Supreme Court case *California Farm Bureau Federation v. State Water Resources Control Board (California Farm Bureau v. Water Resources Board)*. Among other things, the Supreme Court says: ". . . A fee may be charged by a government entity so long as it does not exceed the reasonable cost of providing services necessary to regulate the activity for which the fee is charged. A valid fee may not be imposed for unrelated revenue purposes."

The Supreme Court also says: "Thus, permissible fees must be related to the overall cost of the government regulation. They need not be finely calibrated to the precise benefit each individual fee payor might derive. What a fee cannot do is exceed the reasonable cost of regulation with the generated surplus used for general revenue collection. An excessive fee that is used to generate general revenue becomes a tax."

In OAL's estimation, the CBA did not provide the evidence required that the fees in the Retired Status rulemaking do not exceed the reasonable cost of providing the service.

**Comments**

The CBA has until May 29, 2013 to resubmit this rulemaking with changes that will satisfy the case law in *California Farm Bureau v. Water Resources Board*. If needed, a request for additional time may be submitted to OAL.

## **Discussion and Possible Action to Adopt or Amend Previously Proposed Text at Title 16, CCR Sections 15, 15.1, 15.2, 15.3, 15.4, 70, 71, and 87.1, and Adopt New Article 2.5 Regarding Retired Status**

Page 2 of 2

The case law appears to require that state agencies seeking fee changes must provide a detailed workload breakdown detailing which positions would perform which functions and how much time those functions would encompass, including overhead and administrative functions. This process allows dollar amounts to be placed on the staff time, which provides an exact computation of the fee that may be charged.

The application fee was initially set at \$100 as that was one-half the normal renewal fee and seemed to be a reasonable amount. The restoration fee was \$200 for every renewal cycle that the license was retired up to the statutory maximum of \$1000. It does not appear that a fee on a sliding scale such as this can be justified as required by the case law.

Based on the calculations, staff is recommending revising the retired status application fee from \$100 to \$75. In addition, staff is recommending the restoration fee be set at the fixed amount of \$50.

The justifications for the recommended fee levels can be found in **Attachment 1**, and the changes to the language itself can be found in **Attachment 2**.

Should the CBA approve these changes, the next step would be a 15-Day Notice of Modified Text to allow the public time to comment on the proposed changes. If no adverse comments are received, the rulemaking file would be submitted to the Department of Consumer Affairs to obtain approvals from the Director, the State and Consumer Services Agency, and the Department of Finance. With those approvals, the file will be resubmitted to OAL for its approval.

### Suggested Motion:

*Motion:* To accept the changes made by staff to the proposed text as a result of OAL's disapproval, and direct staff to take all steps necessary to complete the rulemaking process, including seeking further extensions of time to complete the process from OAL and noticing the modified text and additional documents for an additional 15-day comment period. If during the 15-day public comment period, no adverse comments are received, authorize the Executive Officer to make any non-substantive changes to the proposed regulations before completing the rulemaking process, and adopt the proposed regulations with the modified text.

### Fiscal/Economic Impact Considerations

The proposed fee levels are set to cover the costs associated with the workload created by the regulation.

### Recommendation

Staff recommend adopting the suggested motion.

### Attachment

- 1 – Fee Justification Spreadsheets
- 2 – Proposed Regulatory Language

RETIRED RESTORATION COST ESTIMATE PER APPLICATION					
Function	Classification	Min/Activity	Occurrences	Total Time (hours)	Assumptions/Comments
Phone, E-mail Responses	OT	10	0.1667	0.0278	assumes that one of every 3 licensees will have a question about how to apply for status, 50% of the questions will be non-technical that can be answered by an OT
Technical Phone, E-mail Responses	SSA	15	0.1667	0.0417	assumes that one of every 3 licensees will have a question about how to apply for status, 50% of the questions will be detailed/technical in nature, requiring the expertise of a SSA to answer
Review of Restoration Application, Continuing Education	OT	25	1.00	0.4167	
Update Status Record and file application	OT	3	1.00	0.05	
Issue Confirmation Letter Issuance / Denial / Abandon	OT	5	1.00	0.0833	
Issue 1st Deficiency Letter and Update Record	SSA	15	0.10	0.025	assumes 10% will have some deficiency issue
Issue 2nd Deficiency Letter and Update Record	SSA	15	0.024	0.006	assumes 24% of the deficient will not respond to the 1st letter timely and will receive a second letter
Review Compliance Documents	SSA	10	0.0560	0.0093	assumes 80% of deficient individuals comply and submit compliance documents, 70% of which will be less complex in nature, requiring a SSA to review
Review More Complex Compliance Documents	AGPA	15	0.0240	0.006	assumes 80% of deficient individuals comply and submit compliance documents, 30% of which will be more complex in nature, requiring an AGPA to review

OPERATING COSTS (OE&E) FOR RCC	
Total Annual Operating Expenses for RCC Unit	\$416,672.00
Operating Expenses per PY	\$37,879.27
Operating Expense Cost per Hour	\$21.33
LICENSING MANAGEMENT OVERSIGHT	
Total Operating Budget for Licensing Administration	\$605,291.00
Licensing Administration Cost per PY	\$18,915.34
Licensing Administration Cost per Hour	\$10.65
ADMINISTRATION & EXECUTIVE SUPPORT	
Total Operating Budgets for Admin & Exec	\$2,528,640.00
Admin & Exec Support Cost per PY	\$31,647.56
Admin & Exec Support Cost per Hour	\$17.82
<b>TOTAL OVERHEAD/SUPPORT COSTS PER RCC PY PER HOUR</b>	<b>\$49.80</b>

includes rent, prorata, general expenses, etc.  
per CBA FY 12-13 mid year cost center breakdown  
11 PYs in the RCC Unit  
assumes 1776 hours/year for 1 PY

includes salaries, benefits of managers & their OE&E  
32 PYs total - Prac Priv (2), RCC (11), Exams (7), Initial Licensing (12)  
assumes 1776 hours/year for 1 PY

includes salaries and benefits for 20.4 PYs & their OE&E  
79.9 PYs in all of Board of Accountancy  
assumes 1776 hours/year for 1 PY

TOTAL OT HOURS PER RETIRED LICENSEE	0.5778
HOURLY RATE OF OT	\$27.67
DIRECT OT COST PER RETIRED LICENSEE	\$15.99
OT OVERHEAD/SUPPORT COST	\$28.77
<b>TOTAL OT COST PER RETIRED LICENSEE</b>	<b>\$44.76</b>
TOTAL SSA HOURS PER RETIRED LICENSEE	0.082
HOURLY RATE OF SSA	\$33.78
DIRECT SSA COST PER RETIRED LICENSEE	\$2.77
SSA OVERHEAD/SUPPORT COST	\$4.08
<b>TOTAL SSA COST PER RETIRED LICENSEE</b>	<b>\$6.85</b>
TOTAL AGPA HOURS PER RETIRED LICENSEE	0.006
HOURLY RATE OF AGPA	\$45.33
DIRECT AGPA COST PER RETIRED LICENSEE	\$0.27
AGPA OVERHEAD/SUPPORT COST	\$0.30
<b>TOTAL AGPA COST PER RETIRED LICENSEE</b>	<b>\$0.57</b>
<b>TOTAL COSTS PER REINSTATED APPLICATION</b>	<b>52.19</b>

assumes salaries @ midstep, benefits @ 37.65% per FY 11-12 price  
assumes 1776 hours/year for 1 PY

**Proposed Regulatory Language**

**Section 70 – Fees**

- (a) Commencing January 23, 2004, the fee to be charged each California applicant for the computer-based Uniform Certified Public Accountant Examination shall be an application fee of \$100 for issuance of the Authorization to Test to first-time applicants and an application fee of \$50 for issuance of the Authorization to Test to repeat applicants.
- (b) Commencing July 1, 2001, the fee to be charged each applicant for issuance of a certified public accountant certificate shall be \$250.
- (c) The fee to be charged each applicant for registration, including applicant for registration under a new name as a partnership or as a corporation, shall be \$150.
- (d)(1) Commencing July 1, 2000, the fee to be charged each applicant for the initial permit to practice as a partnership, a corporation, or a certified public accountant shall be \$200.
- (2) Commencing July 1, 2011, the fee to be charged each applicant for the initial permit to practice as a partnership, a corporation, or a certified public accountant shall be \$120.
- (3) Commencing July 1, 2015, the fee to be charged each applicant for the initial permit to practice as a partnership, a corporation, or a certified public accountant shall be \$200 unless subsection ~~(f)~~ (i) applies.
- (e)(1) Commencing July 1, 2000, the fee to be charged each applicant for renewal of a permit to practice as a partnership, a corporation, a public accountant, or a certified public accountant shall be \$200.
- (2) For licenses expiring after June 30, 2011, the fee to be charged each applicant for renewal of a permit to practice as a partnership, a corporation, a public accountant, or a certified public accountant shall be \$120.
- (3) For licenses expiring after June 30, 2015, the fee to be charged each applicant for renewal of a permit to practice as a partnership, a corporation, a public accountant, or a certified public accountant shall be \$200 unless subsection ~~(f)~~ (i) applies.
- (f) The fee for the processing and issuance of a duplicate copy of a certificate of licensure or registration shall be \$10.
- (g) The fee for processing and issuance of a duplicate copy of a registration, or permit or other form evidencing licensure or renewal of licensure shall be \$2.
- (h)(1) The fee to be charged an individual for submission of a Practice Privilege Notification Form pursuant to Business and Professions Code Section 5096 with an authorization to sign attest reports shall be \$100.
- (2) The fee to be charged an individual for submission of a Practice Privilege Notification Form pursuant to Business and Professions Code Section 5096 without an authorization to sign attest reports shall be \$50.
- (i) (1) The fee to be charged a licensee for submission of an application for a license in a retired status pursuant to Section 15.1 shall be ~~\$400~~ \$75.
- (2) The fee to restore a license from a retired status to an active status shall be \$50, based on the amount of time that has elapsed since the retired status was granted to

~~the time a written request for a restoration and the restoration fee is received by the Board is as follows:~~

~~(A) 24 months and less \$200;~~

~~(B) 24 months and one day to 48 months \$400;~~

~~(C) 48 months and one day to 72 months \$600;~~

~~(D) 72 months and one day to 96 months \$800;~~

~~(E) More than 96 months \$1000.~~

(i) (j) By May 31, 2014, the Board shall conduct a review of its actual and estimated costs. Based on this review, the Board shall determine the appropriate level of fees for the initial permit to practice pursuant to subsection (d) and renewal of the permit to practice pursuant to subsection (e) in order to maintain the Board's contingent fund reserve balance at an amount equal to approximately nine months of estimated annual authorized expenditures. If the Board determines that fees of less than \$200 are indicated, the Board shall fix the fees by regulation at the indicated amounts by July 1, 2015.

Note: Authority cited: Sections 5010 and 5134, Business and Professions Code.  
Reference: Sections 122, 163, 5070.1, 5096, and 5134 Business and Professions Code.



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**CBA Item VIII.C.**  
March 21-22, 2013

### **Update on Rulemaking Regarding Section 70 – Fees**

**Presented by:** Matthew Stanley, Regulation Analyst

**Date:** February 26, 2013

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

The purpose of this agenda item is to provide the California Board of Accountancy (CBA) with information regarding how case law impacts the CBA's proposed fee reduction rulemaking.

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

No action is required.

#### **Background**

In late January, the Office of Administrative Law (OAL) disapproved the CBA's Retired Status rulemaking. The basis for this decision was founded in a 2011 California Supreme Court case *California Farm Bureau Federation v. State Water Resources Control Board (California Farm Bureau v. Water Resources Board)*. Among other things, the Supreme Court says: ". . . A fee may be charged by a government entity so long as it does not exceed the reasonable cost of providing services necessary to regulate the activity for which the fee is charged. A valid fee may not be imposed for unrelated revenue purposes."

The Supreme Court also says: "Thus, permissible fees must be related to the overall cost of the government regulation. They need not be finely calibrated to the precise benefit each individual fee payor might derive. What a fee cannot do is exceed the reasonable cost of regulation with the generated surplus used for general revenue collection. An excessive fee that is used to generate general revenue becomes a tax."

#### **Comments**

With OAL's new requirements for fee justification in mind, staff has begun re-analyzing the fee reduction rulemaking (**Attachment 1**) that the CBA approved at its January 2013 meeting. Staff will be analyzing all of the affected fees from a zero basis to determine exactly what each fee should be to support its respective workload. While the actual reductions proposed by the CBA may not be affected, since fees may be set lower than what is required, the level to which those fees will return after two years is what is currently being examined through this process. Staff intend to present its findings from this process to the CBA at its May 2013 meeting.

## **Update on Rulemaking Regarding Section 70 – Fees**

Page 2 of 2

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

A fiscal analysis will be provided along with staff's recommendations regarding the rulemaking at the CBA's May 2013 meeting.

### **Recommendation**

There is no recommendation for this item.

### **Attachment**

Proposed Regulatory Language

PROPOSED REGULATORY LANGUAGE

**§ 70. Fees.**

(a)(1) From July 1, 2014 to June 30, 2016, the application fee for the computer-based Uniform Certified Public Accountant Examination shall be \$50 for issuance of the Authorization to Test to first-time applicants and \$25 for issuance of the Authorization to Test to repeat applicants.

~~(2) Commencing January 23, 2004~~ July 1, 2016, the ~~application fee to be charged each California applicant~~ application fee shall be ~~an application fee of \$100 for issuance of the Authorization to Test to first-time applicants and an application fee of \$50 for issuance of the Authorization to Test to repeat applicants.~~ \$50 for issuance of the Authorization to Test to first-time applicants and \$25 for issuance of the Authorization to Test to repeat applicants.

(b)(1) From July 1, 2014 to June 30, 2016, the application fee for issuance of a certified public accountant certificate shall be \$50.

~~(2) Commencing July 1, 2004~~ July 1, 2016, the ~~application fee to be charged each applicant~~ application fee shall be ~~\$250.~~ \$50.

(c)(1) From July 1, 2014 to June 30, 2016, the application fee for registration as a partnership or as a corporation, including registration under a new name as a partnership or as a corporation, shall be \$30.

~~(2) The~~ Commencing July 1, 2016, the ~~application fee to be charged each applicant for registration as a partnership or as a corporation, including applicant for registration under a new name as a partnership or as a corporation, shall be \$150.~~ application fee shall be \$30.

~~(d)(1) Commencing July 1, 2000, the fee to be charged each applicant for the initial permit to practice as a partnership, a corporation, or a certified public accountant shall be \$200.~~

~~(2) Commencing July 1, 2011~~ From July 1, 2014 to June 30, 2016, the ~~fee to be charged each applicant for the initial permit to practice as a partnership, a corporation, or a certified public accountant shall be \$120~~ fee shall be ~~\$120~~ \$50.

~~(3) (2) Commencing July 1, 2015~~ 2016, the ~~fee to be charged each applicant for the initial permit to practice as a partnership, a corporation, or a certified public accountant shall be \$200 unless subsection (i) applies.~~ fee shall be \$50 unless subsection (i) applies.

~~(e)(1) Commencing July 1, 2000, the fee to be charged each applicant for renewal of a permit to practice as a partnership, a corporation, a public accountant, or a certified public accountant shall be \$200.~~

~~(2) For licenses expiring after between June 30, 2011~~ July 1, 2014 and June 30, 2016, the fee for renewal of a permit to practice as a partnership, a corporation, a public accountant, or a certified public accountant shall be ~~\$120~~ \$50.

~~(3) For licenses expiring after June 30, 2015~~ 2016, the ~~fee to be charged each applicant for renewal of a permit to practice as a partnership, a corporation, a public accountant, or a certified public accountant shall be \$200 unless subsection (i) applies.~~ fee shall be \$50 unless subsection (i) applies.

~~(f) The fee for the processing and issuance of a duplicate copy of a certificate of licensure or registration shall be \$10.~~

~~(g) The fee for processing and issuance of a duplicate copy of a registration, or permit or other form evidencing licensure or renewal of licensure shall be \$2.~~

(h)(1) ~~The fee to be charged an individual~~ for submission of a Practice Privilege Notification Form pursuant to Business and Professions Code Section 5096 with an authorization to sign attest reports shall be \$100.

(2) ~~The fee to be charged an individual~~ for submission of a Practice Privilege Notification Form pursuant to Business and Professions Code Section 5096 without an authorization to sign attest reports shall be \$50.

(3) This subsection shall be inoperative until January 1, 2019.

(i) By May 31, ~~2014~~ 2015, the Board shall conduct a review of its actual and estimated costs. Based on this review, the Board shall determine the appropriate level of fees for the initial permit to practice pursuant to subsection (d) and renewal of the permit to practice pursuant to subsection (e) in order to maintain the Board's contingent fund reserve balance at an amount equal to approximately ~~nine~~ three months of estimated annual authorized expenditures. If the Board determines that fees of less than \$200 are indicated, the Board shall fix the fees by regulation at the indicated amounts by July 1, ~~2015~~ 2016.

Note: Authority cited: Sections 5010 and 5134, Business and Professions Code.  
Reference: Sections 122, 163, 5096, and 5134 Business and Professions Code.



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**EPOC Item II**  
March 21, 2013

**CBA Item IX.A.2.**  
March 21 - 22, 2013

**Further Discussion and Possible Action Regarding Adding a Model Petition for Reinstatement of CPA's Certificate Decision Checklist to the CBA Disciplinary Guidelines**

**Presented by:** Rafael Ixta, Chief, Enforcement Division

**Date:** February 20, 2013

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**Purpose of the Item**

The purpose of this agenda item is for members of the Enforcement Program Oversight Committee (EPOC) to consider adding a fourth option, condition(s) precedent, to the Petition for Reinstatement of CPA's Certificate Decision Checklist (Decision Checklist) and include the Decision Checklist in the CBA Disciplinary Guidelines.

**Action Needed**

EPOC members will need to determine whether to accept the revised Decision Checklist and include it in the next edition of the CBA Disciplinary Guidelines.

**Background**

At the January 24, 2013 meeting, EPOC members were presented with a Decision Checklist for members' consideration to incorporate it into the next edition of the CBA Disciplinary Guidelines. CBA staff informed members that the Decision Checklist was modeled after a reinstatement checklist utilized by the California State Board of Pharmacy. During discussions, a suggestion was made to add a fourth option, condition(s) precedent, to specify conditions that must be met prior to reinstatement of a license.

**Comments**

CBA staff revised the Decision Checklist to incorporate conditions that must be met prior to reinstatement of a license, as well as other changes to add clarity to the Decision Checklist (**Attachment**). Examples of conditions precedent include restitution, cost reimbursement, completion of continuing education, completion of rehabilitation program, take and pass the CPA/Enrolled Agents exam, etc. The Decision Checklist will streamline the petition for reinstatement process by providing model reinstatement order language for CBA members and Administrative Law Judges. Incorporating the Decision Checklist into the next edition of the CBA Disciplinary Guidelines assures consistency in its application for license reinstatement matters.

**Further Discussion and Possible Action Regarding Adding a Model Petition for Reinstatement of CPA's Certificate Decision Checklist to the CBA Disciplinary Guidelines**

Page 2 of 2

**Fiscal/Economic Impact Considerations**

None.

**Recommendation**

Staff recommends approval of the Decision Checklist and inclusion in the next edition of the CBA Disciplinary Guidelines.

**Attachment**

Petition for Reinstatement of CPA's Certificate Decision Checklist.

**California Board of Accountancy**

**Petition for Reinstatement of CPA's Certificate**

**DECISION CHECKLIST**

The following orders should be used in all cases for petitions for reinstatement considered by the CBA. In the CBA's sole discretion, modifications may be made or additional language used based upon the facts of the specific case.

**MODEL REINSTATEMENT ORDER LANGUAGE**

**1. Grant petition without restrictions on the license.** The Order would read as follows:

The petition for reinstatement filed by \_\_\_\_\_ is hereby granted and Petitioner's certificate shall be fully restored.

**2. Grant petition and place license on probation.** The Order would read as follows:

The petition for reinstatement filed by \_\_\_\_\_ is hereby granted. Petitioner's certificate shall be fully restored, 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*):

**3. Grant petition and place license on probation after petitioner completes conditions precedent to reinstatement of the license.** The Order would read as follows:

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, 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*):

**4. Deny petition.** The Order would read as follows:

The petition for reinstatement filed by \_\_\_\_\_ is hereby denied.

**Option:** In accordance with Section 5115(a) of the Business and Professions Code, 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 section 5115 also allows a person to file a petition for a reduction in penalty. The above checklist can also be used for these petitions.

**STANDARD CONDITIONS OF PROBATION:**

For those cases where probation is part of the CBA’s order, all standard conditions of probation (Conditions 5-14) are to be included. For ease-of-use, the full text of each standard condition of probation is not listed here, unless otherwise noted below. The full text is otherwise listed on pages 63 to 64.

#6 **Cost Reimbursement:**  
Respondent shall reimburse the CBA \$\_\_\_\_\_ for its investigation and prosecution costs. The payment shall be made within\_\_\_ days/months of the date the 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].

Note: Cost reimbursement to be used if the Petitioner has not paid costs ordered in the original Decision and Order or if not ordered as a “condition precedent” to reinstating the license.

**OPTIONAL CONDITIONS OF PROBATION:**

Each term should be reviewed and included in cases where appropriate based on the facts of the case. For ease-of-use, the full text of each optional condition of probation is not listed here, unless otherwise noted below. The full text is otherwise listed on pages 65 to 69.

#15 **Supervised Practice**

#16 **Restitution:**  
Respondent shall make restitution to\_\_\_\_\_ in the amount of \$\_\_\_\_\_ and shall provide the CBA with a written release from \_\_\_\_\_ attesting that full restitution has been paid. Restitution shall be completed before the termination of probation.

#17 **Restricted Practice:**  
Respondent shall be prohibited from\_\_\_\_\_ (performing certain types of engagements such as audits, reviews, compilations, or attestation engagements, etc.), and/or from practice in\_\_\_\_\_ (certain specialty areas, i.e. bookkeeping, write up, tax, auditing, etc.).

#18 **Engagement Letters**

#19 **Library Reference Materials**

#20 **Ethics Continuing Education**

#21 **Regulatory Review Course**

#22 **Peer Review**

#23 **CPA Exam**

#24 **Enrolled Agents Exam**

#25 **Continuing Education Courses:**

Respondent shall complete and provide proper documentation of (specified) professional education courses within (a designated time). This (shall be/shall not be) in addition to continuing education requirements for relicensing.

OR

Respondent shall complete professional education courses as specified by the CBA or its designee at the time of respondent's first probation appearance. The professional education courses shall be completed within a period of time designated and specified in writing by the CBA or its designee, which time frame shall be incorporated as a condition of this probation. This (shall be/shall not be) in addition to continuing education requirements for relicensing.

Failure to satisfactorily complete the required courses as scheduled or failure to complete same no later than 100 days prior to the termination of probation shall constitute a violation of probation.

- #26 **Active License Status**
- #27 **Samples- Audit, Review or Compilation**
- #28 **Prohibition from Handling Funds**
- #29 **Community Service – Free Services:**  
Respondent shall participate in a community service program as directed by the CBA or its designee in which 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\_\_. Respondent is entirely responsible for his or her performance in the program and the CBA assumes neither express nor implied responsibility for respondent's performance nor for the product or services rendered.
- #30 **Relinquish Certificate**
- #31 **Notification to Clients/Cessation of Practice**
- #32 **Administrative Penalty:**  
Respondent shall pay to the CBA 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 CBA's decision is final
- #33 **Medical Treatment**
- #34 **Psychotherapist**
- #35 **Rehabilitation Program/Chemical Dependence**
- #36 **Drugs - Abstain From Use**
- #37 **Drugs - Screening**
- #38 **Biological Fluid Testing**

Conditions 33-38 shall be used when evidence indicates respondent may have physical or mental ailment(s) or condition(s) which contributed to the violation or when the same are alleged by respondent to be a contributing factor to the violation(s).



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**EPOC Item III.**  
March 21, 2013

**CBA Item IX.A.3.**  
March 21-22, 2013

**Discussion and Possible Action to Approve the Conceptual Revisions to the Manual of Disciplinary Guidelines and Model Disciplinary Orders**

**Presented by:** Rafael Ixta, Chief, Enforcement Division

**Date:** February 12, 2013

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**Purpose of the Item**

The purpose of this agenda item is to present the timeline for updating the 2011, 7<sup>th</sup> Edition, California Board of Accountancy (CBA) Model Disciplinary Guidelines and Model Disciplinary Orders (Guidelines) to the Enforcement Program Oversight Committee (EPOC) members and to discuss conceptual revisions to the Guidelines.

**Action(s) Needed**

Staff is requesting the EPOC approve the schedule for revising the Guidelines and provide guidance to staff regarding any conceptual changes to the Guidelines (**Attachment 1**). Staff also requests input from EPOC members regarding any additional concepts or changes they would like added to the next iteration of the guidelines that are not already outlined in this agenda item.

**Background**

On a tri-annual basis, the Guidelines are revised. The current edition of the Guidelines was adopted by the CBA on September 23, 2010. Once the revisions are completed and the revised Guidelines are adopted by the CBA, the rulemaking process is initiated. The revised Guidelines become effective once the rulemaking process is complete.

**Comments**

**Revision Schedule**

Every three years, the CBA reviews the Guidelines to ensure they are current, applicable, and to incorporate new laws as necessary. Due to the length of the document, and the number of possible additions, it is often easier to look at the Guidelines in sections, as opposed to the entire document at once. Therefore, staff recommends the following revision schedule:

- March 2013  
EPOC review the conceptual changes outlined in this paper.
- May 2013  
Staff will present the proposed changes in strikethrough and underline.

## Discussion and Possible Action to Approve the Conceptual Revisions to the Manual of Disciplinary Guidelines and Model Disciplinary Orders

Page 2 of 3

- September 2013  
Staff will present new additions to the Guidelines, including law and regulation changes and additions since 2010.
- November 2013  
A final draft of the Guidelines will be presented to the EPOC.

### Conceptual Changes

Staff has identified the following conceptual changes to the Guidelines:

- **Model Orders**  
At the January 24, 2013 EPOC meeting, staff presented an agenda item related to adding model orders to the Guidelines for a Petition for Reinstatement. In order to assist the Administrative Law Judge (ALJ) with other model orders, staff recommends adding model orders for applicants after a Statement of Issues has been filed and model orders for licensees where a Petition to Revoke Probation has been filed.
- **Restitution**  
In order to differentiate restitution from administrative penalties or damages, staff recommends adding another bullet to Section II - General Conditions, which will expand on the concept of restitution.
- **Minimum Penalties**  
The minimum penalty for many of the violations is currently "Correction of Violation". CBA legal counsel has indicated that correcting a violation is not discipline, and therefore may not be appropriate. For Example, the minimum penalty for violating California Code of Regulations Section 56, accepting a commission, is Correction of Violation and/or Continuing Education Courses. Staff recommends changing the minimum penalty for most of the violations to more closely fit the code section violated.
- **Continuing Education Courses**  
Optional Condition of Probation No. 25 requires a licensee to complete Continuing Education (CE) as a condition of probation. This condition is written in a permissive way; meaning the CE taken may count toward the license renewal requirement. Staff recommends changing the probation term to require all CE taken be in addition to those hours required for license renewal.
- **New Optional Term – Probation Monitoring Costs**  
Staff researched disciplinary guidelines from other boards and bureaus with the Department of Consumer Affairs to determine if they utilized conditions of probation that should be considered for inclusion in the CBA's Guidelines. Of the ten reviewed, half provided the option for recovery of probation monitoring costs. In the past, the CBA has entered into stipulated settlements on a few occasions that required the probationer pay monitoring costs. However, this probationary condition is not in the Guidelines and not available for consideration by an ALJ.

## **Discussion and Possible Action to Approve the Conceptual Revisions to the Manual of Disciplinary Guidelines and Model Disciplinary Orders**

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Staff recommends developing probation monitoring costs as an optional term of probation.

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

There is minimal fiscal or economic impact to updating the disciplinary guidelines. The only real impact would be requiring probation monitoring cost reimbursement by licensees on probation.

### **Recommendation**

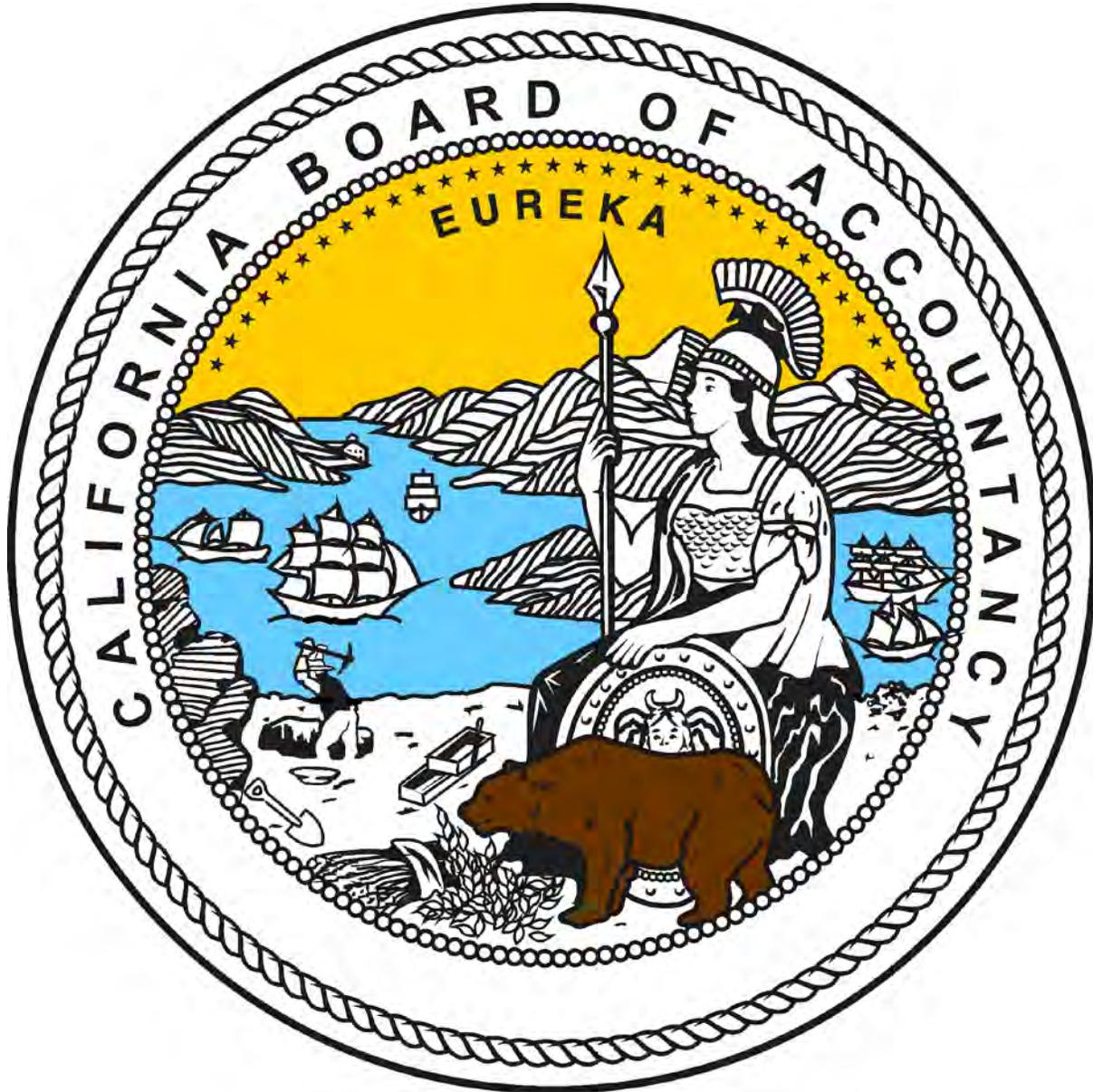
Staff recommends the EPOC members provide direction to staff regarding the revision schedule, conceptual changes, and other changes that members would like included in the Guidelines.

### **Attachments**

A Manual of Disciplinary Guidelines and Model Disciplinary Orders, 7<sup>th</sup> Edition



# A MANUAL OF DISCIPLINARY GUIDELINES AND MODEL DISCIPLINARY ORDERS 7<sup>th</sup> Edition 2011



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# California Board of Accountancy

## DISCIPLINARY GUIDELINES AND MODEL DISCIPLINARY ORDERS

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# **DISCIPLINARY GUIDELINES AND MODEL DISCIPLINARY ORDERS**

## **I. INTRODUCTION**

The California Board of Accountancy (CBA) licenses the practice of 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 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 California Public Accountants and Certified Public Accountants as well as any alleged violation of the California Accountancy Act. The California Accountancy Act and the regulations of the California Board of Accountancy provide the basis for CBA disciplinary action. (See California Business and Professions Codes Sections 5000 et seq., and Title 16 California Code of Regulations 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 California Business and Professions Code Section 5109.)

These disciplinary guidelines, designed for the use of Administrative Law Judges, attorneys, CBA licensees, and others involved in the CBA's disciplinary process, are revised from time to time. The guidelines cover model disciplinary 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. This revised edition was adopted by the CBA on September 23, 2010.

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/Section 99.1).
- 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 therefrom is clearly set forth in the findings and supported by the evidence.

If the 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 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.

- f. **Reimbursement to the CBA for costs of investigation and prosecution as warranted by Business and Professions Code Section 5107.**

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 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 [in the Update. Further, California law requires that all enforcement actions to be posted on the CBA website.](#)

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, 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 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 must reimburse the CBA for all reasonable costs of investigation and prosecution prior to or upon reinstatement of respondent's revoked certificate under Section 5115 of the California Business and Professions Code.

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 engage in no activities for which certification is required (see model disciplinary orders). In addition, the respondent shall relinquish the certificate in question to the CBA and shall notify clients regarding the suspended status of the certificate, if directed to do so by the CBA.

### **III. EVIDENCE IN AGGRAVATION OF PENALTY**

The following are among aggravating circumstances to be considered by Administrative Law Judges 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 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 Administrative Law Judges in providing for penalties in proposed decisions:

1. The licensee has cooperated with the California Board of Accountancy'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 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**

The CBA's rehabilitation criteria, set forth in Section 99.1, are as follows:

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 or restoration of a revoked certificate under Section 5115 of the California Business and Professions Code, the CBA, in evaluating the rehabilitation of the applicant and his or her present eligibility for a certificate or permit, will consider the following criteria:

1. Nature and severity of the act(s) or offense(s);
2. 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. The time that has elapsed since commission of the act(s) or offense(s) referred to in subdivision (1) or (2);
4. The extent to which the applicant or respondent has complied with any terms of parole, probation, restitution, or any other sanctions lawfully imposed against the applicant or respondent;
5. If applicable, evidence of expungement proceedings pursuant to Section 1203.4 of the Penal Code;
6. Evidence, if any, of rehabilitation submitted by the applicant or respondent.

## **VI. ADMINISTRATIVE PENALTIES**

California Business and Professions Code Section 5116 et seq. allow 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 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 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 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 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 first disciplinary action and "subsequent violations" refers to any subsequent disciplinary actions.

Cost recovery ordered under California Business and Professions Code 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.

# California Board of Accountancy

## Index to Disciplinary Guidelines

(Refer to page 50 for Index to Model Disciplinary Orders)

### B & P Section

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## VII. DISCIPLINARY GUIDELINES

The offenses and penalties are listed chronologically by statute number in the Business and Professions Code and by regulation number in Title 16 of the California Code of Regulations. The number in brackets following each condition of probation refers to the model disciplinary order so numbered (See **Model Disciplinary 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 [25]  
*Maximum Penalty:* Revocation stayed, [1,2,4] 3 years probation

##### CONDITIONS OF PROBATION:

- Required:*
- Standard Conditions of Probation [5-14]
- If warranted:*
- Suspension [3] with/without stay [4]
  - Supervised Practice [15]
  - Restricted Practice [17]
  - Ethics Continuing Education [20]
  - Regulatory Review Course [21]
  - Continuing Education Courses [25]
  - Administrative Penalty not to exceed maximum set forth in Section 5116 [32]

(Reference Section 54.1)

##### **Section 5037(b)(1)(2) RETURN OF CLIENT DOCUMENTS**

- Minimum Penalty:* Continuing Education Courses [25]  
*Maximum Penalty:* Revocation [1-2]

##### CONDITIONS OF PROBATION:

- Required:*
- If revocation stayed [4], 3 years probation
  - Standard Conditions of Probation [5-14]
- If warranted:*
- Suspension [3] with/without stay [4]
  - Supervised Practice [15]
  - Restitution [16]
  - Restricted Practice [17]

- Engagement Letters [18]
- Ethics Continuing Education [20]
- Regulatory Review Course [21]
- Continuing Education Courses [25]
- Community Service – Free Services [29]
- Administrative Penalty not to exceed maximum set forth in Section 5116 [32]
- Conditions as appropriate relating to physical or mental disability or condition [31-36]

(Reference Section 68)

### **ARTICLE 3**

#### **Section 5050(a)**

#### **PRACTICE WITHOUT PERMIT; TEMPORARY PRACTICE**

Except as provided for in Section 5050(b) and (c), Section 5054, and Section 5096.12, applies to respondent who practices for a time without a valid license to practice or to respondent who practices without obtaining a practice privilege.

Minimum Penalty:

Continuing Education Courses [25]

Maximum Penalty:

Revocation [1-2]

#### **CONDITIONS OF PROBATION:**

Required:

- If revocation stayed [4], 3 years probation
- Standard Conditions of Probation [5-14]

If warranted:

- Suspension [3] with/without stay [4]
- Restricted Practice [17]
- Ethics Continuing Education [20]
- Regulatory Review Course [21]
- Continuing Education Courses [25]
- Active License Status [26]
- Administrative Penalty not to exceed maximum set forth in Section 5116 [32]

#### **Section 5050(b)**

#### **PRACTICE WITHOUT PERMIT; TEMPORARY PRACTICE; OUT-OF-STATE LICENSEE**

Applies to non-California CPAs or firms temporarily practicing in California that solicit California clients, imply they are licensed in California, or engage in development, implementation, or marketing of abusive tax avoidance transactions.

Minimum Penalty:

Correction of Violation

Maximum Penalty:

Revoke authorization to practice

**Section 5050(c)**

**PRACTICE WITHOUT PERMIT; TEMPORARY PRACTICE; FOREIGN ACCOUNTANTS**

Applies to respondents licensed in a foreign country who are temporarily practicing in California and hold out as California licensees.

*Minimum Penalty:*

Correction of Violation

*Maximum Penalty:*

Revoke authorization to practice

**Section 5054**

**PREPARATION OF TAX RETURNS BY INDIVIDUALS AND FIRMS OUTSIDE THE STATE**

*Minimum Penalty:*

Correction of Violation

*Maximum Penalty:*

Revoke authorization to practice

**Section 5055**

**TITLE OF CERTIFIED PUBLIC ACCOUNTANT**

**Section 5056**

**TITLE OF PUBLIC ACCOUNTANT**

Applies to 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 [25]

*Maximum Penalty:*

Revocation [1-2]

**CONDITIONS OF PROBATION**

*Required:*

- If revocation stayed [4], 3 years probation
- Standard Conditions of Probation [5-14]

*If warranted:*

- Suspension [3] with/without stay [4]
- Restricted Practice [17]
- Ethics Continuing Education [20]
- Regulatory Review Course [21]
- Continuing Education Courses [25]
- Active License Status [26]
- Administrative Penalty not to exceed maximum set forth in Section 5116 [32]

**Section 5058**

**USE OF CONFUSING TITLES OR DESIGNATIONS PROHIBITED**

*Minimum Penalty:*

Continuing Education Courses [25]

*Maximum Penalty:*

Revocation stayed with actual suspension [1-4]

**CONDITIONS OF PROBATION**

*Required:*

- Standard Conditions of Probation [5-14]

- If warranted:
- Suspension [3] with/without stay [4]
  - Restricted Practice [17]
  - Ethics Continuing Education[20]
  - Regulatory Review Course [21]
  - Continuing Education Courses [25]
  - Administrative Penalty not to exceed maximum set forth in Section 5116 [32]

(Reference Section 2)

**Section 5058.1**

**TITLES IN CONJUNCTION WITH CERTIFIED PUBLIC ACCOUNTANT OR PUBLIC ACCOUNTANT**

- Minimum Penalty: Continuing Education Courses [25]  
Maximum Penalty: Revocation stayed with actual suspension [1-4]

**CONDITIONS OF PROBATION**

- Required:
- Standard Conditions of Probation [5-14]

- If warranted:
- Suspension [3] with/without stay [4]
  - Restricted Practice [17]
  - Ethics Continuing Education [20]
  - Regulatory Review Course [21]
  - Continuing Education Courses [25]
  - Administrative Penalty not to exceed maximum set forth in Section 5116 [32]

**Section 5058.2**

**INACTIVE DESIGNATION**

- Minimum Penalty: Correction of Violation  
Maximum Penalty: Revocation stayed, 3 years probation [1-2,4]

**CONDITIONS OF PROBATION**

- Required:
- Standard Conditions of Probation [5-14]

- If warranted:
- Administrative Penalty not to exceed maximum set forth in Section 5116 [32]

**ARTICLE 3.5**

**Section 5060**

**NAME OF FIRM**

- Minimum Penalty: Continuing Education Courses [25]  
Maximum Penalty: Revocation stayed with actual suspension [1-4]

**CONDITIONS OF PROBATION**

Required:

- Standard Conditions of Probation [5-14]

If warranted:

- Suspension [3] with/without stay [4]
- Restricted Practice [17]
- Ethics Continuing Education [20]
- Regulatory Review Course [21]
- Continuing Education Courses [25]
- Administrative Penalty not to exceed maximum set forth in Section 5116 [32]

(Reference Section 5072)

**Section 5061**

**COMMISSIONS**

Minimum Penalty:

Continuing Education [25]

Maximum Penalty:

Revocation [1-2]

**CONDITIONS OF PROBATION**

Required:

- If revocation stayed [4], 3 years probation
- Standard Conditions of Probation [5-14]

If warranted:

- Suspension [3] with/without stay [4]
- Supervised Practice [15]
- Restitution [16]
- Restricted Practice [17]
- Engagement Letters [18]
- Ethics Continuing Education [20]
- Regulatory Review Course [21]
- Continuing Education Courses [25]
- Community Service – Free Services [29]
- Administrative Penalty not to exceed maximum set forth in Section 5116 [32]

**Section 5062**

**REPORT CONFORMING TO PROFESSIONAL STANDARDS**

Minimum Penalty:

Continuing Education Courses [25]

Maximum Penalty:

Revocation [1-2]

**CONDITIONS OF PROBATION**

Required:

- If revocation stayed [4], 3 years probation
- Standard Conditions of Probation [5-14]
- Continuing Education Courses [25]

If warranted:

- Suspension [3] with/without stay [4]
- Supervised Practice [15]
- Restitution [16]

- Restricted Practice [17]
- Engagement Letters [18]
- Ethics Continuing Education [20]
- Regulatory Review Course [21]
- Peer Review [22]
- CPA Exam [23]
- Samples - Audits, Review or Compilation [27]
- Community Service – Free Services [29]
- Notice to Clients [31]
- Administrative Penalty not to exceed maximum set forth in Section 5116 [32]

(Reference 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:

- If revocation stayed [4], probation of 3 to 5 years
- Suspension [3]
- Standard Conditions of Probation [5-14]

If warranted:

- Ethics Continuing Education [20]
- Regulatory Review Course [21]
- Community Service – Free Services [29]
- Administrative Penalty not to exceed maximum set forth in Section 5116 [32]

### **Section 5063**

#### **REPORTABLE EVENTS**

Minimum Penalty: Correction of Violation and/or Continuing Education Courses [25]

Maximum Penalty: Revocation [1-2]

#### **CONDITIONS OF PROBATION**

Required:

- If revocation stayed [4], 3 years probation
- Standard Conditions of Probation [5-14]

If warranted:

- Suspension [3] with/without stay [4]
- Supervised Practice [15]
- Restricted Practice [17]
- Ethics Continuing Education [20]
- Regulatory Review Course [21]
- Continuing Education Courses [25]
- Samples – Audit, Review or Compilation [27]

- Prohibition from Handling Funds [28]
- Community Service – Free Services [29]
- Administrative Penalty not to exceed maximum set forth in Section 5116 [32]
- Conditions as appropriate relating to physical or mental disability or condition [31-36]

(Reference Sections 59, 60, 61)

**Section 5063.3**

**CONFIDENTIAL INFORMATION DISCLOSURE**

Minimum Penalty:

Continuing Education Courses [25]

Maximum Penalty:

Revocation stayed; 90 day suspension, 3 years probation [1-4]

***CONDITIONS OF PROBATION***

Required:

- 3 years probation
- Standard Conditions of Probation [5-14]

If warranted:

- Suspension [3]
- Supervised Practice [15]
- Ethics Continuing Education [20]
- Regulatory Review Course [21]
- Continuing Education Courses [25]
- Notice to Clients [31]
- Administrative Penalty not to exceed maximum set forth in Section 5116 [32]

**ARTICLE 4**

**Section 5070.7**

**FAILURE TO RENEW WITHIN FIVE YEARS**

Minimum Penalty:

Certificate canceled immediately and returned to the CBA

Maximum Penalty:

CPA Exam [23]

**Section 5072(a)**

**REQUIREMENTS FOR REGISTRATION AS A PARTNERSHIP**

Applies to licensee(s) in a partnership who practices for a time without partnership license (Section 5073) and subsequently renews, or to a partnership in practice without a license.

Minimum Penalty:

Continuing Education Courses [25]

Maximum Penalty:

Revocation of partnership/individual licenses [1-2]

***CONDITIONS OF PROBATION***

Required:

- If revocation stayed [4], 3 years probation

- Standard Conditions of Probation [5-14]

If warranted:

- Suspension [3] with/without stay [4]
- Restricted Practice [17]
- Ethics Continuing Education [20]
- Regulatory Review Course [21]
- Continuing Education Courses [25]
- Administrative Penalty not to exceed maximum set forth in Section 5116 [32]

(See also section on **Unlicensed Activities.**)

**Section 5073(d)**

**PARTNERSHIP APPLICATIONS**  
**(ADMISSION OR WITHDRAWAL OF PARTNER)**

Minimum Penalty:

Continuing Education Course [25]

Maximum Penalty:

Revocation [1-2]

**CONDITIONS OF PROBATION**

Required:

- If revocation stayed [4], 3 years probation
- Standard Conditions of Probation [5-14]

If warranted:

- Ethics Continuing Education [20]
- Regulatory Review Course [21]
- Administrative Penalty not to exceed maximum set forth in Section 5116 [32]

**Section 5076(a)**

**PEER REVIEW**

Minimum Penalty:

Correction of Violation

Maximum Penalty:

Revocation [1-2]

**CONDITIONS OF PROBATION**

Required:

- If revocation stayed [4], 3 years probation
- Standard Conditions of Probation [5-14]

If warranted:

- Suspension [3] with/without stay [4]
- Supervised Practice [15]
- Restricted Practice [17]
- Ethics Continuing Education [20]
- Regulatory Review Course [21]
- Continuing Education Courses [25]
- Sample – Audit, Review or Compilation [27]
- Notification to Clients/Cessation of Practice [31]
- Administrative Penalty not to exceed maximum set forth in Section 5116 [32]

(Reference Sections 40, 41, 43)

**Section 5076(f)**

**PEER REVIEW – DOCUMENT SUBMISSION REQUIREMENT**

Minimum Penalty:

Correction of Violation

Maximum Penalty:

Revocation [1-2]

**CONDITIONS OF PROBATION**

Required:

- If revocation stayed [4], 3 years probation
- Standard Conditions of Probation [5-14]

If warranted:

- Suspension [3] with/without stay [4]
- Supervised Practice [15]
- Restricted Practice [17]
- Ethics Continuing Education [20]
- Regulatory Review Course [21]
- Peer Review [22]
- Continuing Education Courses [25]
- Sample – Audit, Review or Compilation [27]
- Notification to Clients/Cessation of Practice [31]
- Administrative Penalty not to exceed maximum set forth in Section 5116 [32]

(Reference Section 46)

**Section 5078**

**OFFICES NOT UNDER PERSONAL MANAGEMENT OF CERTIFIED PUBLIC ACCOUNTANT OR PUBLIC ACCOUNTANT; SUPERVISION**

Minimum Penalty:

Continuing education [25] 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 [10]

Maximum Penalty:

Revocation [1-2]

**CONDITIONS OF PROBATION**

Required:

- If revocation stayed [4], 3 years probation
- Standard Conditions of Probation [5-14]

If warranted:

- Suspension [3] with/without stay [4]
- Supervised Practice [15]
- Restricted Practice [17]
- Ethics Continuing Education [20]
- Regulatory Review Course [21]
- Continuing Education Courses [25]
- Administrative Penalty not to exceed maximum set forth in Section 5116 [32]

**Section  
5079(a)(b)(d)**

**NONLICENSEE OWNERSHIP OF FIRMS**

Minimum Penalty:

Continuing Education [25] for California licensee partners or for licensee shareholders of corporation

Maximum Penalty:

Revocation of partnership or corporate registration and individual licenses

Required:

**CONDITIONS OF PROBATION**

- If revocation stayed, 3 years probation
- Standard Conditions of Probation [5-14]

If warranted:

- Suspension [3] with/without stay [4]
- Restricted Practice [17]
- Ethics Continuing Education [20]
- Regulatory Review Course [21]
- Administrative Penalty not to exceed maximum set forth in Section 5116 [32]

(Reference 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 Section 5100 for applicable provisions

Maximum Penalty:

Denial of admission to examination or revocation of license if issued

(Reference relevant section for discipline based upon nature of act.)

**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.

**Section 5088**

**INTERIM PRACTICE RIGHTS: OUT OF STATE CPA**

Minimum/Maximum  
Penalty:

If CBA rejects application, cease practice immediately. If practice continues, see provisions on Unlicensed Activities.

**Section 5095(a)**

**MINIMUM NUMBER OF ATTEST SERVICES HOURS;  
ATTEST EXPERIENCE**

Minimum Penalty: Correction of Violation

Maximum Penalty: Revocation [1-2]

**CONDITIONS OF PROBATION**

- Required:
- If revocation stayed [4], 3 years probation
  - Standard Conditions of Probation [5-14]

- If warranted:
- Suspension [3] with/without stay [4]
  - Restricted Practice [17]
  - Ethics Continuing Education [20]
  - Regulatory Review Course [21]
  - CPA Exam [23]
  - Continuing Education Courses [25]
  - Active License Status [26]
  - Notification to Clients/Cessation of Practice [31]
  - Administrative Penalty not to exceed maximum set forth in Section 5116 [32]

**ARTICLE 5.1**

**Section 5096(e)(3)**

**PRACTICE PRIVILEGE –  
PRACTICE FROM OFFICE IN THIS STATE**

Minimum Penalty: Revocation stayed [1-2, 4]; 3 years probation

Maximum Penalty: Revoke Practice Privilege [1-2]

**CONDITIONS OF PROBATION**

- Required:
- If revocation stayed [4], probation 3 to 5 years
  - Suspension [3]
  - Standard Conditions of Probation [5-14]

- If warranted:
- Ethics Continuing Education [20]
  - Regulatory Review Course [21]
  - Administrative Penalty not to exceed maximum set forth in Section 5116 [32]

**Section 5096(e)(5)**

**PRACTICE PRIVILEGE – COOPERATE WITH BOARD INQUIRY**

Minimum Penalty: Administrative Suspension pursuant to Section 5096.4; or CBA approval required before commencing practice under future practice privilege

Maximum Penalty: Revoke Practice Privilege [1-2]

**CONDITIONS OF PROBATION**

Required:

- If revocation stayed [4], probation 3 to 5 years
- Suspension [3]
- Standard Conditions of Probation [5-14]

If warranted:

- Ethics Continuing Education [20]
- Regulatory Review Course [21]
- Administrative Penalty not to exceed maximum set forth in Section 5116 [32]

**Section 5096(g)(1)**

**PRACTICE PRIVILEGE – DISQUALIFYING CONDITIONS**

Minimum Penalty:

Revocation stayed [1-2, 4]; 3 years probation

Maximum Penalty:

Revoke Practice Privilege [1-2]

**CONDITIONS OF PROBATION**

Required:

- If revocation stayed [4], probation 3 to 5 years
- Suspension [3]
- Standard Conditions of Probation [5-14]

If warranted:

- Ethics Continuing Education [20]
- Regulatory Review Course [21]
- Administrative Penalty not to exceed maximum set forth in Section 5116 [32]

**Section 5096.5**

**PRACTICE PRIVILEGE – SIGN ATTEST REPORTS**

Minimum Penalty:

Revocation stayed [1-2, 4]; 3 years probation

Maximum Penalty:

Revoke Practice Privilege [1-2]

**CONDITIONS OF PROBATION**

Required:

- If revocation stayed [4], probation 3 to 5 years
- Suspension [3]
- Standard Conditions of Probation [5-14]

If warranted:

- Ethics Continuing Education [20]
- Regulatory Review Course [21]
- Administrative Penalty not to exceed maximum set forth in Section 5116 [32]

**Section 5096.12(a)**

**PRACTICE PRIVILEGE – LIMITED FIRM PRACTICE**

Applies to an out-of-state firm practicing through a practice privilege holder.

Minimum Penalty:

Revocation stayed [1-2, 4]; 3 years probation

Maximum Penalty: Revoke Practice Privilege [1-2]

**CONDITIONS OF PROBATION**

- Required:
- If revocation stayed [4], probation 3 to 5 years
  - Standard Conditions of Probation [5-14]

- If warranted:
- Suspension [3]
  - Ethics Continuing Education [20]
  - Regulatory Review Course [21]
  - Administrative Penalty not to exceed maximum set forth in Section 5116 [32]

**Section 5096.13**

**FIRM INFORMATION**

Minimum Penalty: Correction of Violation

Maximum Penalty: Revoke authorization to practice

**ARTICLE 5.5**

**Section 5097**

**AUDIT DOCUMENTATION**

Minimum Penalty: Continuing Education Courses [25]

Maximum Penalty: Revocation [1-2]

**CONDITIONS OF PROBATION**

- Required:
- If revocation stayed [4], 3 years probation
  - Standard Conditions of Probation [5-14]

- If warranted:
- Suspension [3] with/without stay [4]
  - Supervised Practice [15]
  - Restricted Practice [17]
  - Library Reference Material [19]
  - Ethics Continuing Education [20]
  - Regulatory Review Course [21]
  - Peer Review [22]
  - CPA Exam [23]
  - Continuing Education Courses [25]
  - Samples - Audits, Review or Compilation [27]
  - Community Service – Free Services [29]
  - Notice to Clients [31]
  - Administrative Penalty not to exceed maximum set forth in Section 5116 [32]

(Reference 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 [25]

Maximum Penalty:

Revocation [1-2]

#### **CONDITIONS OF PROBATION**

Required:

- If revocation stayed [4], probation of 3 to 5 years
- Standard Conditions of Probation [5-14]

If warranted:

- Suspension [3] with/without stay [4]
- Optional conditions which relate to underlying facts and circumstances; reference conditions listed in 5100 (a)-(j)
- Administrative Penalty not to exceed maximum set forth in Section 5116 [32]

### **Section 5100(a)**

#### **CONVICTION OF ANY CRIME**

**SUBSTANTIALLY RELATED TO THE QUALIFICATIONS, FUNCTIONS AND DUTIES OF A CPA/PA**

#### **FOR FELONY CONVICTIONS OR SEVERAL MISDEMEANOR CONVICTIONS:**

Minimum Penalty:

Revocation stayed. Actual suspension from practice 120 days.  
Three years probation [1-4]

Maximum Penalty:

Revocation [1-2]

#### **CONDITIONS OF PROBATION**

Required:

- If revocation stayed [4], probation of 3 to 5 years
- Suspension [3]
- Standard Conditions of Probation [5-14]

If warranted:

- Supervised Practice [15]
- Restitution [16]
- Restricted Practice [17]
- Engagement Letters [18]
- Ethics Continuing Education [20]
- Regulatory Review Course [21]
- CPA Exam [23] or Enrolled Agents Exam [24]
- Continuing Education Courses [25]
- Samples - Audit, Compilation or Review [27]
- Prohibition from Handling Funds [28]
- Community Service – Free Services [29]
- Administrative Penalty not to exceed maximum set forth in Section 5116 [32]

- Conditions as appropriate relating to physical or mental disability or condition [31-36]

**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:

- If revocation stayed [4], probation of 3 to 5 years
- Suspension [3]
- Standard Conditions of Probation [5-14]

If warranted:

- Ethics Continuing Education [20]
- Regulatory Review Course [21]
- Continuing Education Courses [25]
- Administrative Penalty not to exceed maximum set forth in Section 5116 [32]

**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

Maximum Penalty:

Revocation [1-2]

**CONDITIONS OF PROBATION**

Required:

- If revocation stayed [4], probation of 3 to 5 years
- Standard Conditions of Probation [5-14]

If warranted:

- Supervised Practice [15]
- Restitution [16]
- Restricted Practice [17]
- Ethics Continuing Education [20]
- Regulatory Review Course [21]
- Peer Review [22]
- CPA Exam [23]
- Continuing Education Courses [25]

- Samples - Audit, Review or Compilation [27]
- Prohibition from Handling Funds [28]
- Community Service – Free Services [29]
- Notification to Clients [31]
- Administrative Penalty not to exceed maximum set forth in Section 5116 [32]
- Conditions as appropriate relating to physical or mental disability or condition [31-36]

**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]

Required:

**CONDITIONS OF PROBATION**

- If revocation stayed [4], probation of 3 to 5 years
- Standard Conditions of Probation [5-14]

If warranted  
[include those related to underlying offense(s)]:

- Suspension [3] with/without stay [4]
- Supervised Practice [15]
- Restitution [16]
- Restricted Practice [17]
- Ethics Continuing Education [20]
- Regulatory Review Course [21]
- CPA Exam [23] or Enrolled Agents Exam [24]
- Continuing Education Courses [25]
- Samples - Audit, Review or Compilation [27]
- Prohibition from Handling Funds [28]
- Community Service – Free Services [29]
- Notice to Clients [31]
- Conditions as appropriate relating to physical or mental disability or condition [31-36]

**Section 5100(e)**

**VIOLATION OF PROVISIONS OF SECTION 5097**

Minimum Penalty:

Continuing Education Courses [25]

Maximum Penalty:

Revocation [1-2]

Required:

**CONDITIONS OF PROBATION**

- If revocation stayed [4], 3 years probation
- Standard Conditions of Probation [5-14]
- Continuing Education Courses [25]

If warranted:

- Suspension [3] with/without stay [4]
- Supervised Practice [15]
- Restricted Practice [17]
- Library Reference Material [19]
- Ethics Continuing Education [20]
- Regulatory Review Course [21]
- Peer Review [22]
- CPA Exam [23]
- Samples - Audits, Review or Compilation [27]
- Community Service – Free Services [29]
- Notice to Clients [31]
- Administrative Penalty not to exceed maximum set forth in Section 5116 [32]

**Section 5100(f)**

**VIOLATIONS OF PROVISIONS OF SECTION 5120**

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 CBA has reason to believe that any person is liable for punishment under this article, the CBA, 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
- 5060 NAME OF FIRM
- 5061 COMMISSIONS
- 5062 REPORT CONFORMING TO PROFESSIONAL STANDARDS

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

Maximum Penalty: Revocation [1-2]

**CONDITIONS OF PROBATION**

Required:

- If revocation stayed [4], 3 years probation
- Standard Conditions of Probation [5-14]

If warranted:  
[include those related to underlying offense(s)]:

- Suspension [3] with/without stay [4]
- Supervised Practice [15]
- Restitution [16]
- Restricted Practice [17]
- Ethics Continuing Education [20]
- Regulatory Review Course [21]
- CPA Exam [23] or Enrolled Agents Exam [24]
- Continuing Education Courses [25]
- Samples - Audit, Review or Compilation [27]
- Prohibition from Handling Funds [28]
- Community Service – Free Services [29]
- Notice to Clients [31]
- Administrative Penalty not to exceed maximum set forth in Section 5116 [32]
- Conditions as appropriate relating to physical or mental disability or condition [31-36]

**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:

- If revocation stayed [4], probation of 3 to 5 years
- Suspension [3]
- Standard Conditions of Probation [5-14]

If warranted:

- Supervised Practice [15]
- Restitution [16]
- Restricted Practice [17]
- Ethics Continuing Education [20]
- Regulatory Review Course [21]
- CPA Exam [23] or Enrolled Agents Exam [24]
- Continuing Education Courses [25]

- Prohibition from Handling Funds [28]
- Community Service – Free Services [29]
- Notice to Clients [31]
- Administrative Penalty not to exceed maximum set forth in Section 5116 [32]
- Conditions as appropriate relating to physical or mental disability or condition [31-36]

**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:

- If revocation stayed [4], 3 to 5 years probation
- Suspension [3]
- Standard Conditions of Probation [5-14]

If warranted:

- Supervised Practice [15]
- Restitution [16]
- Restricted Practice [17]
- Engagement Letters [18]
- Ethics Continuing Education [20]
- Regulatory Review Course [21]
- CPA Exam [23] or Enrolled Agents Exam [24]
- Continuing Education Courses [25]
- Samples - Audit, Review or Compilation [27]
- Community Service – Free Services [29]
- Notice to Clients [31]
- Administrative Penalty not to exceed maximum set forth in Section 5116 [32]
- Conditions as appropriate relating to physical or mental disability or condition [31-36]

**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:

- If revocation stayed [4], probation of 3 to 5 years
- Suspension [3]
- Standard Conditions of Probation [5-14]

If warranted:

- Supervised Practice [15]
- Restitution [16]
- Restricted Practice [17]
- Ethics Continuing Education [20]
- Regulatory Review Course [21]
- CPA Exam [23] or Enrolled Agents Exam [24]
- Continuing Education Courses [25]
- Prohibition from Handling Funds [28]
- Notice to Clients [31]
- Administrative Penalty not to exceed maximum set forth in Section 5116 [32]
- Conditions as appropriate relating to physical or mental disability or condition [31-36]

**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:

- If revocation stayed [4], 3 years probation
- Standard Conditions of Probation [5-14]

If warranted:

- Suspension [3] with/without stay [4]
- Supervised Practice [15]
- Restitution [16]
- Restricted Practice [17]
- Ethics Continuing Education [20]
- Regulatory Review Course [21]
- CPA Exam [23] or Enrolled Agents Exam [24]
- Continuing Education Courses [25]
- Samples - Audit, Review or Compilation [24]
- Prohibition from Handling Funds [28]
- Community Service – Free Services [29]
- Notice to Clients [31]
- Administrative Penalty not to exceed maximum set forth in Section 5116 [32]
- Conditions as appropriate relating to physical or mental disability or condition [31-36]

**Section 5100(m)**

**UNLAWFULLY ENGAGING IN PRACTICE  
OF PUBLIC ACCOUNTANCY IN ANOTHER STATE**

Minimum Penalty: Continuing Education Courses [25]

Maximum Penalty: Revocation [1-2]

**CONDITIONS OF PROBATION**

- Required:
- If revocation stayed [4], 3 years probation
  - Standard Conditions of Probation [5-14]

- If warranted:
- Suspension [3] with/without stay [4]
  - Restricted Practice [17]
  - Ethics Continuing Education [20]
  - Regulatory Review Course [21]
  - Continuing Education Courses [25]
  - Active License Status [26]
  - Administrative Penalty not to exceed maximum set forth in Section 5116 [32]

**Section 5101**

**DISCIPLINE OF PARTNERSHIP**

Minimum Penalty: Probation; require CPA or PA partners to develop standards for supervision, and implement a practice plan; permit practice investigation within 3 months to ensure compliance [10]

Maximum Penalty: Revocation [1-2]

**CONDITIONS OF PROBATION**

- Required:
- Standard Conditions of Probation [5-14]

- If warranted:
- Supervised Practice [15]
  - Restitution [16]
  - Restricted Practice [17]
  - Engagement Letters [18]
  - Administrative Penalty not to exceed maximum set forth in Section 5116 [32]

**Section 5104**

**RELINQUISHMENT OF CERTIFICATE OR PERMIT**

Minimum Penalty: Revocation [1-2]

Maximum Penalty: Revocation [1-2]

**Section 5105**

**DELINQUENCY IN PAYMENT OF RENEWAL FEE**

Minimum Penalty: Relinquish certificate [30] which will be reissued under Section 5070.6 guidelines (payment of renewal and delinquency fees)

and compliance with continuing education guidelines)

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, or revocation of license if issued.

**CONDITIONS OF PROBATION**

If warranted:

Administrative Penalty not to exceed maximum set forth in Section 5116 [32]

**ARTICLE 7**

**Sections 5120/5121**

**VIOLATIONS AS MISDEMEANOR/ EVIDENCE OF VIOLATION**

See Section 5100(f) and section on **Unlicensed Activities**.

**ARTICLE 9**

**Section 5152**

**CORPORATION REPORTS**

Minimum Penalty:

Continuing Education for officers of corporation [25]

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 for officers of corporation [25]

Maximum Penalty:

Suspend corporate accountancy registration and/or individual licenses for 90 days [3]

**Section 5154**

**DIRECTORS, SHAREHOLDERS, AND OFFICERS MUST BE LICENSED**

Minimum Penalty:

Continuing Education Courses [25]

Maximum Penalty: Revocation of corporate registration [1-2] and discipline of individual licenses

**CONDITIONS OF PROBATION**

Required: • Standard Conditions of Probation [5-14]

If warranted:

- Suspension [3] with/without stay [4]
- Ethics Continuing Education [20]
- Regulatory Review Course [21]
- Administrative Penalty not to exceed maximum set forth in Section 5116 [32]

**Section 5155**

**DISQUALIFIED SHAREHOLDER NONPARTICIPATION**

Minimum Penalty: Continuing Education Courses [25]

Maximum Penalty: Revocation of individual and corporate license [1-2]

**CONDITIONS OF PROBATION**

Required: • Standard Conditions of Probation [5-14]

If warranted:

- Suspension [3] with/without stay [4]
- Ethics Continuing Education [20]
- Regulatory Review Course [21]
- Administrative Penalty not to exceed maximum set forth in Section 5116 [32]

**Section 5156**

**UNPROFESSIONAL CONDUCT  
(ACCOUNTANCY CORPORATION)**

Minimum Penalty: Continuing Education Courses [25] for licensee directors, shareholders, and/or officers of corporation

Maximum Penalty: Revocation of individual and corporate licenses [1-2]

**CONDITIONS OF PROBATION**

Required: • Standard Conditions of Probation [5-14]

If warranted:

- Suspension [3] with/without stay [4]
- Ethics Continuing Education [20] for licensee directors, shareholders and/or officers
- Regulatory Review Course [21] for licensee directors, shareholders and/or officers
- Community Service – Free Services [29]
- Administrative Penalty not to exceed maximum set forth in Section 5116 [32]

**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. Require CPA or PA to develop management plan; permit practice investigation within 3 months to ensure compliance with management requirement and plan [10,23]

Maximum Penalty:

Revocation [1-2]

***CONDITIONS OF PROBATION***

Required:

- Standard Conditions of Probation [5-14]

If warranted:

- Supervised Practice [15]
- Restitution [16]
- Restricted Practice [17]
- Engagement Letters [18]
- Ethics Continuing Education [20]
- Regulatory Review Course [21]
- Administrative Penalty not to exceed maximum set forth in Section 5116 [32]
- Conditions as appropriate relating to physical or mental disability or condition [31-36]

**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 [25]

Maximum Penalty: 90 day Suspension [3]

**SECTION 5**      **OBSERVANCE OF RULES**

Minimum Penalty: Continuing Education Courses [25]

Maximum Penalty: Revocation [1-2]

**CONDITIONS OF PROBATION**

Required:

- If revocation stayed [1-2, 4], 3 years probation
- Standard Conditions of Probation [5-14]

If warranted:

- Ethics Continuing Education [20]
- Regulatory Review Course [21]
- Continuing Education Courses [25]
- Samples - Audit, Review or Compilation [27]
- Community Service – Free Services [29]
- Administrative Penalty not to exceed maximum set forth in Section 5116 [32]

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 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 Section 5116 [32]

## ARTICLE 4: PRACTICE PRIVILEGE

### Section 32

#### **BOARD APPROVAL REQUIRED**

Minimum Penalty: Revocation stayed [1-2, 4]; 3 years probation

Maximum Penalty: Revoke Practice Privilege [1-2]

#### **CONDITIONS OF PROBATION**

Required:

- If revocation stayed [4], 3 years probation
- Standard Conditions of Probation [5-14]

If warranted:

- Suspension [3] with/without stay [4]
- Ethics Continuing Education [20]
- Regulatory Review Course [21]
- Administrative Penalty not to exceed maximum set forth in Section 5116 [32]

[Reference Section 5096(g)]

### SECTION 33(a)

#### **CHANGES TO INFORMATION ON NOTIFICATION**

Minimum Penalty: Correction of Violation

Maximum Penalty: Revoke Practice Privilege [1-2]

#### **CONDITIONS OF PROBATION**

Required:

- If revocation stayed [4], 3 years probation
- Standard Conditions of Probation [5-14]

If warranted:

- Suspension [3] with/without stay [4]
- Ethics Continuing Education [20]
- Regulatory Review Course [21]
- Administrative Penalty not to exceed maximum set forth in Section 5116 [32]

### SECTION 35

#### **CONTINUING EDUCATION REQUIREMENTS**

Minimum Penalty: Correction of Violation

Maximum Penalty: Revoke Practice Privilege [1-2]

#### **CONDITIONS OF PROBATION**

Required:

- If revocation stayed [4], 3 years probation
- Standard Conditions of Probation [5-14]

If warranted:

- Suspension [3] with/without stay [4]
- Ethics Continuing Education [20]

- Regulatory Review Course [21]
- Continuing Education Courses [25]
- Administrative Penalty not to exceed maximum set forth in Section 5116 [32]

## **ARTICLE 6: PEER REVIEW**

### **SECTION 40(a)(b)(c) ENROLLMENT AND PARTICIPATION**

Minimum Penalty: Correction of Violation

Maximum Penalty: Revocation [1-2]

#### ***CONDITIONS OF PROBATION***

- Required:
- If revocation stayed [4], 3 years probation
  - Standard Conditions of Probation [5-14]

- If warranted:
- Suspension [3] with/without stay [4]
  - Supervised Practice [15]
  - Restricted Practice [17]
  - Ethics Continuing Education [20]
  - Regulatory Review Course [21]
  - Peer Review [22]
  - Continuing Education Courses [25]
  - Sample – Audit, Review or Compilation [27]
  - Notification to Clients/Cessation of Practice [31]
  - Administrative Penalty not to exceed maximum set forth in Section 5116 [32]

(Reference Section 5076(a))

### **SECTION 41 FIRM RESPONSIBILITIES**

Minimum Penalty: Continuing Education Courses [25]

Maximum Penalty: Revocation [1-2]

#### ***CONDITIONS OF PROBATION***

- Required:
- If revocation stayed [4], 3 years probation
  - Standard Conditions of Probation [5-14]

- If warranted:
- Ethics Continuing Education [20]
  - Regulatory Review Course [21]
  - Continuing Education Courses [25]
  - Administrative Penalty not to exceed maximum set forth in Section 5116 [32]

## SECTION 43

### **EXTENSIONS**

Minimum Penalty:

Continuing Education Courses [25]

Maximum Penalty:

Revocation stayed with actual suspension [1-4]

### **CONDITIONS OF PROBATION**

Required:

- If revocation stayed [4], 3 years probation
- Standard Conditions of Probation [5-14]

If warranted:

- Ethics Continuing Education [20]
- Regulatory Review Course [21]
- Continuing Education Courses [25]
- Administrative Penalty not to exceed maximum set forth in Section 5116 [32]

## SECTION 44

### **NOTIFICATION OF EXPULSION**

Minimum Penalty:

Correction of Violation

Maximum Penalty:

Revocation [1-2]

### **CONDITIONS OF PROBATION**

Required:

- If revocation stayed [4], 3 years probation
- Standard Conditions of Probation [5-14]

If warranted:

- Suspension [3] with/without stay [4]
- Supervised Practice [15]
- Restricted Practice [17]
- Ethics Continuing Education [20]
- Regulatory Review Course [21]
- Continuing Education Courses [25]
- Sample – Audit, Review or Compilation [27]
- Administrative Penalty not to exceed maximum set forth in Section 5116 [32]
- Conditions as appropriate relating to physical or mental disability or condition [31-36]

## SECTION 45

### **REPORTING TO BOARD**

Minimum Penalty:

Correction of Violation

Maximum Penalty:

Revocation [1-2]

### **CONDITIONS OF PROBATION**

- Required:
- If revocation stayed [1-2,4], 3 years probation
  - Standard Conditions of Probation [5-14]

- If warranted:
- Ethics Continuing Education [20]
  - Regulatory Review Course [21]
  - Continuing Education Courses [25]
  - Administrative Penalty not to exceed maximum set forth in Section 5116 [32]

(Reference Section 5076(a))

#### **SECTION 46(a)**

#### **DOCUMENT SUBMISSION REQUIREMENTS**

Applies to firms that receive a substandard peer review rating.

Minimum Penalty: Correction of Violation

Maximum Penalty: Revocation [1-2]

#### **CONDITIONS OF PROBATION**

- Required:
- If revocation stayed [1-2,4], 3 years probation
  - Standard Conditions of Probation [5-14]

- If warranted:
- Ethics Continuing Education [20]
  - Regulatory Review Course [21]
  - Continuing Education Courses [25]
  - Administrative Penalty not to exceed maximum set forth in Section 5116 [32]

(Reference Section 5076(f))

#### **SECTION 46(b)**

#### **DOCUMENT SUBMISSION REQUIREMENTS**

Applies to firms that receive a “pass” or “pass with deficiencies” peer review rating.

Minimum Penalty: Correction of Violation

Maximum Penalty: Revocation [1-2]

#### **CONDITIONS OF PROBATION**

- Required:
- If revocation stayed [1-2,4], 3 years probation
  - Standard Conditions of Probation [5-14]

- If warranted:
- Ethics Continuing Education [20]
  - Regulatory Review Course [21]
  - Administrative Penalty not to exceed maximum set forth in Section 5116 [32]

## **ARTICLE 9: RULES OF PROFESSIONAL CONDUCT**

#### **SECTION 50**

#### **CLIENT NOTIFICATION**

Minimum Penalty: Correction of Violation  
Maximum Penalty: Revocation stayed, suspension, 3 years probation [1-4]

**CONDITIONS OF PROBATION**

Required: • Standard Conditions of Probation [5-14]

If warranted: • Suspension [3] with/without stay [4]  
• Ethics Continuing Education [20]  
• Regulatory Review Course [21]  
• Administrative Penalty not to exceed maximum set forth in Section 5116 [32]

**SECTION 51**

**FIRMS WITH NONLICENSEE OWNERS**

Minimum Penalty: Correction of Violation  
Maximum Penalty: Revocation stayed, suspension, 3 years probation [1-4]

**CONDITIONS OF PROBATION**

Required: • Standard Conditions of Probation [5-14]

If warranted: • Suspension [3] with/without stay [4]  
• Restricted Practice [17]  
• Ethics Continuing Education [20]  
• Regulatory Review Course [21]  
• Administrative Penalty not to exceed maximum set forth in Section 5116 [32]

**SECTION 51.1**

**NOTIFICATION OF NON-LICENSEE OWNERSHIP**

Minimum Penalty: Continuing Education [25] 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: • If revocation stayed, 3 years probation  
• Standard Conditions of Probation [5-14]

If warranted: • Suspension [3] with/without stay [4]  
• Ethics Continuing Education [20]  
• Regulatory Review Course [21]  
• Administrative Penalty not to maximum set forth in Section 5116 [32]

(Reference Section 5079)

## SECTION 52

### **RESPONSE TO BOARD INQUIRY**

Minimum Penalty: Continuing Education Courses [25]

Maximum Penalty: Revocation [1-2]

#### **CONDITIONS OF PROBATION**

- Required:
- If revocation stayed [1-2,4], 3 years probation
  - Standard Conditions of Probation [5-14]

- If warranted:
- Ethics Continuing Education [20]
  - Regulatory Review Course [21]
  - Continuing Education Courses [25]
  - Community Service – Free Services [29]
  - Administrative Penalty not to exceed maximum set forth in Section 5116 [32]

## SECTION 53

### **DISCRIMINATION PROHIBITED**

Minimum Penalty: Continuing Education Courses [25]

Maximum Penalty: Revocation stayed, 3 years probation [1-2,4]

#### **CONDITIONS OF PROBATION**

- Required:
- Standard Conditions of Probation [5-14]

- If warranted:
- Ethics Continuing Education [20]
  - Regulatory Review Course [21]
  - Continuing Education Courses [25]
  - Administrative Penalty not to exceed maximum set forth in Section 5116 [32]

## SECTION 54.1

### **DISCLOSURE OF CONFIDENTIAL INFORMATION PROHIBITED**

Minimum Penalty: Continuing Education Courses [25]

Maximum Penalty: Revocation stayed; 90 day suspension, 3 years probation [1-4]

#### **CONDITIONS OF PROBATION**

- Required:
- 3 years probation
  - Standard Conditions of Probation [5-14]

- If warranted:
- Suspension [3]
  - Supervised Practice [15]
  - Ethics Continuing Education [20]
  - Regulatory Review Course [21]
  - Continuing Education Courses [25]
  - Notice to Clients [31]

- Administrative Penalty not to exceed maximum set forth in Section 5116 [32]

(Reference Section 5037)

## **SECTION 54.2**

### **RECIPIENTS OF CONFIDENTIAL INFORMATION**

Minimum Penalty: Continuing Education Courses [25]

Maximum Penalty: Revocation [1-2]

#### **CONDITIONS OF PROBATION**

- Required:
- If revocation stayed, [1-2, 4], 3 years probation
  - Standard Conditions of Probation [5-14]

- If warranted:
- Supervised Practice [15]
  - Ethics Continuing Education [20]
  - Regulatory Review Course [21]
  - Continuing Education Courses [25]
  - Administrative Penalty not to exceed maximum set forth in Section 5116 [32]

## **SECTION 56**

### **COMMISSIONS – BASIC DISCLOSURE REQUIREMENT**

Minimum Penalty: Correction of Violation and/or Continuing Education Courses [25]

Maximum Penalty: Revocation [1-2]

#### **CONDITIONS OF PROBATION**

- Required:
- If revocation stayed [4], 3 years probation
  - Standard Conditions of Probation [5-14]

- If warranted:
- Suspension [3] with/without stay [4]
  - Supervised Practice [15]
  - Restitution [16]
  - Restricted Practice [17]
  - Ethics Continuing Education [20]
  - Regulatory Review Course [21]
  - Continuing Education Courses [25]
  - Administrative Penalty not to exceed maximum set forth in Section 5116 [32]

## **SECTION 56.1**

### **COMMISSIONS – PROFESSIONAL SERVICES PROVIDED TO CLIENT**

Minimum Penalty: Correction of Violation and/or Continuing Education Courses [25]

Maximum Penalty: Revocation [1-2]

**CONDITIONS OF PROBATION**

- Required:
- If revocation stayed [4], 3 years probation
  - Standard Conditions of Probation [5-14]

- If warranted:
- Suspension [3] with/without stay [4]
  - Supervised Practice [15]
  - Restitution [16]
  - Restricted Practice [17]
  - Ethics Continuing Education [20]
  - Regulatory Review Course [21]
  - Continuing Education Courses [25]
  - Administrative Penalty not to exceed maximum set forth in Section 5116 [32]

**SECTION 57**

**INCOMPATIBLE OCCUPATIONS AND CONFLICT OF INTEREST**

Minimum Penalty: Continuing Education Courses [25]

Maximum Penalty: Revocation [1-2]

**CONDITIONS OF PROBATION**

- Required:
- If revocation stayed [1-2,4], 3 years probation
  - Standard Conditions of Probation [5-14]

- If warranted:
- Suspension [3] with/without stay [4]
  - Supervised Practice [15]
  - Restricted Practice [17]
  - Engagement Letters [18]
  - Ethics Continuing Education [20]
  - Regulatory Review Course [21]
  - Continuing Education Courses [25]
  - Prohibition from Handling Funds [28]
  - Community Service – Free Services [29]
  - Administrative Penalty not to exceed maximum set forth in Section 5116 [32]

**SECTION 58**

**COMPLIANCE WITH STANDARDS**

Minimum Penalty: Continuing Education Courses [25]

Maximum Penalty: Revocation [1-2]

**CONDITIONS OF PROBATION**

- Required:
- If revocation stayed [1-2,4], 3 years probation

- Standard Conditions of Probation [5-14]

If warranted:

- Suspension [3] with/without stay [4]
- Supervised Practice [15]
- Restricted Practice [17]
- Engagement Letters [18]
- Ethics Continuing Education [20]
- Regulatory Review Course [21]
- Peer Review [22]
- CPA Exam [23]
- Continuing Education Courses [25]
- Samples - Audit, Review or Compilation [27]
- Administrative Penalty not to exceed maximum set forth in Section 5116 [32]

## SECTION 59

### **REPORTING OF RESTATEMENTS**

Minimum Penalty:

Correction of Violation and/or Continuing Education Courses [25]

Maximum Penalty:

Revocation [1-2]

### **CONDITIONS OF PROBATION**

Required:

- If revocation stayed [4], 3 years probation
- Standard Conditions of Probation [5-14]

If warranted:

- Suspension [3] with/without stay [4]
- Supervised Practice [15]
- Restricted Practice [17]
- Ethics Continuing Education [20]
- Regulatory Review Course [21]
- Continuing Education Courses [25]
- Community Service – Free Services [29]
- Administrative Penalty not to exceed maximum set forth in Section 5116 [32]

(Reference Section 5063)

## SECTION 60

### **REPORTING OF INVESTIGATIONS BY THE PUBLIC COMPANY ACCOUNTING OVERSIGHT BOARD**

Minimum Penalty:

Correction of Violation and/or Continuing Education Courses [25]

Maximum Penalty:

Revocation [1-2]

### **CONDITIONS OF PROBATION**

Required:

- If revocation stayed [4], 3 years probation
- Standard Conditions of Probation [5-14]

If warranted:

- Suspension [3] with/without stay [4]
- Supervised Practice [15]
- Restricted Practice [17]
- Ethics Continuing Education [20]
- Regulatory Review Course [21]
- Continuing Education Courses [25]
- Community Service – Free Services [29]
- Administrative Penalty not to exceed maximum set forth in Section 5116 [32]

(Reference Section 5063)

## **SECTION 61**

### **THE REPORTING OF SETTLEMENTS, ARBITRATION AWARDS, AND JUDGMENTS**

Minimum Penalty:

Correction of Violation and/or Continuing Education Courses [25]

Maximum Penalty:

Revocation [1-2]

#### ***CONDITIONS OF PROBATION***

Required:

- If revocation stayed [4], 3 years probation
- Standard Conditions of Probation [5-14]

If warranted:

- Suspension [3] with/without stay [4]
- Supervised Practice [15]
- Restricted Practice [17]
- Engagement Letters [18]
- Ethics Continuing Education [20]
- Regulatory Review Course [21]
- 7. Continuing Education Courses [25]
- Community Service – Free Services [29]
- Administrative Penalty not to exceed maximum set forth in Section 5116 [32]

(Reference Section 5063)

## **SECTION 62**

### **CONTINGENT FEES**

Minimum Penalty:

Correction of Violation

Maximum Penalty:

Revocation [1-2]

#### ***CONDITIONS OF PROBATION***

Required:

- If revocation stayed [1-2,4], 3 years probation
- Standard Conditions of Probation [5-14]

If warranted:

- Suspension [3] with/without stay [4]
- Supervised Practice [15]
- Restitution [16]

- Restricted Practice [17]
- Engagement Letters [18]
- Ethics Continuing Education [20]
- Regulatory Review Course [21]
- Continuing Education Courses [25]
- Community Service – Free Services [29]
- Administrative Penalty not to exceed maximum set forth in Section 5116 [32]

## SECTION 63

### **ADVERTISING**

Minimum Penalty: Correction of Violation and/or Continuing Education Courses [25]

Maximum Penalty: Revocation [1-2]

#### ***CONDITIONS OF PROBATION***

- Required:
- If revocation stayed [1-2,4], 3 years probation
  - Standard Conditions of Probation [5-14]

- If warranted:
- Suspension [3] with/without stay [4]
  - Ethics Continuing Education [20]
  - Regulatory Review Course [21]
  - Community Service – Free Services [29]
  - Administrative Penalty not to exceed maximum set forth in Section 5116 [32]

## SECTION 65

### **INDEPENDENCE**

Minimum Penalty: Correction of Violation and/or Continuing Education Courses [25]

Maximum Penalty: Revocation [1-2]

#### ***CONDITIONS OF PROBATION***

- Required:
- If revocation stayed [1-2,4], probation of 3 to 5 years
  - Standard Conditions of Probation [5-14]

- If warranted:
- Suspension [3] with/without stay [4]
  - Supervised Practice [15]
  - Restitution [16]
  - Restricted Practice [17]
  - Engagement Letters [18]
  - Ethics Continuing Education [20]
  - Regulatory Review Course [21]
  - Peer Review [22]
  - CPA Exam [23]
  - Samples - Audit, Review or Compilation [27]

- Administrative Penalty not to exceed maximum set forth in Section 5116 [32]

## **SECTION 67**

### **APPROVAL OF USE OF FICTITIOUS NAME**

Minimum Penalty:

Correction of Violation

Maximum Penalty:

Revocation stayed, 90 day suspension, 3 years probation [1-4]

#### ***CONDITIONS OF PROBATION***

Required:

- Standard Conditions of Probation [5-14]

If warranted:

- Ethics Continuing Education [20]
- Regulatory Review Course [21]
- Community Service – Free Services [29]
- Administrative Penalty not to exceed maximum set forth in Section 5116 [32]

## **SECTION 68**

### **RETENTION OF CLIENT'S RECORDS**

Minimum Penalty:

Continuing Education Courses [25]

Maximum Penalty:

Revocation [1-2]

#### ***CONDITIONS OF PROBATION***

Required:

- If revocation stayed [1-2,4], 3 years probation
- Standard Conditions of Probation [5-14]

If warranted:

- Suspension [3] with/without stay [4]
- Supervised Practice [15]
- Restitution [16]
- Restricted Practice [17]
- Engagement Letters [18]
- Ethics Continuing Education [20]
- Regulatory Review Course [21]
- Continuing Education Courses [25]
- Community Service – Free Services [29]
- Administrative Penalty not to exceed maximum set forth in Section 5116 [32]
- Conditions as appropriate relating to physical or mental disability or condition [31-36]

(Reference Section 5037)

## **SECTION 68.1**

### **WORKING PAPERS DEFINED; RETENTION**

Minimum Penalty:

Continuing Education Courses [25]

Maximum Penalty: Revocation [1-2]

**CONDITIONS OF PROBATION**

- Required:
- If revocation stayed [1-2,4], 3 years probation
  - Standard Conditions of Probation [5-14]

- If warranted:
- Suspension [3] with/without stay [4]
  - Restitution [16]
  - Restricted Practice [17]
  - Engagement Letters [18]
  - Ethics Continuing Education [20]
  - Regulatory Review Course [21]
  - Continuing Education Courses [25]
  - Community Service – Free Services [29]
  - Administrative Penalty not to exceed maximum set forth in Section 5116 [32]
  - Conditions as appropriate relating to physical or mental disability or condition [31-36]

**SECTION 68.2**

**COMPONENTS OF AUDIT DOCUMENTATION**

Minimum Penalty: Continuing Education Courses [25]

Maximum Penalty: Revocation [1-2]

**CONDITIONS OF PROBATION**

- Required:
- If revocation stayed [4], 3 years probation
  - Standard Conditions of Probation [5-14]
  - Continuing Education Courses [25]

- If warranted:
- Suspension [3] with/without stay [4]
  - Supervised Practice [15]
  - Restricted Practice [17]
  - Ethics Continuing Education [20]
  - Regulatory Review Course [21]
  - Peer Review [22]
  - CPA Exam [23]
  - Samples - Audits, Review or Compilation [27]
  - Community Service – Free Services [29]
  - Notice to Clients [31]
  - Administrative Penalty not to exceed maximum set forth in Section 5116 [32]

(Reference Section 5097)

**SECTION 68.3**

**RETENTION PERIOD FOR AUDIT DOCUMENTATION**

Minimum Penalty: Continuing Education Courses [25]

Maximum Penalty: Revocation [1-2]

**CONDITIONS OF PROBATION**

- Required:
- If revocation stayed [4], 3 years probation
  - Standard Conditions of Probation [5-14]
  - Continuing Education Courses [25]

- If warranted:
- Suspension [3] with/without stay [4]
  - Supervised Practice [15]
  - Restricted Practice [17]
  - Library Reference Material [19]
  - Ethics Continuing Education [20]
  - Regulatory Review Course [21]
  - Peer Review [22]
  - CPA Exam [24]
  - Samples - Audits, Review or Compilation [27]
  - Community Service – Free Services [29]
  - Notice to Clients [31]
  - Administrative Penalty not to exceed maximum set forth in Section 5116 [32]

(Reference Section 5097)

**SECTION 68.4**

**CHANGES IN  
AUDIT DOCUMENTATION AFTER ISSUANCE OF REPORT**

Minimum Penalty: Continuing Education Courses [25]

Maximum Penalty: Revocation [1-2]

**CONDITIONS OF PROBATION**

- Required:
- If revocation stayed [4], 3 years probation
  - Standard Conditions of Probation [5-14]
  - Continuing Education Courses [25]

- If warranted:
- Suspension [3] with/without stay [4]
  - Supervised Practice [15]
  - Restricted Practice [17]
  - Library Reference Material [19]
  - Ethics Continuing Education [20]
  - Regulatory Review Course [21]
  - Peer Review [22]
  - CPA Exam [23]
  - Samples - Audits, Review or Compilation [27]
  - Community Service – Free Services [29]
  - Notice to Clients [31]
  - Administrative Penalty not to exceed maximum set forth in Section 5116 [32]

(Reference Section 5097)

## **SECTION 68.5**

### **AUDIT DOCUMENTATION RETENTION AND DESTRUCTION POLICY**

Minimum Penalty: Continuing Education Courses [25]

Maximum Penalty: Revocation [1-2]

#### **CONDITIONS OF PROBATION**

Required:

- If revocation stayed [4], 3 years probation
- Standard Conditions of Probation [5-14]
- Continuing Education Courses [25]

If warranted:

- Suspension [3] with/without stay [4]
- Supervised Practice [15]
- Restricted Practice [17]
- Library Reference Material [19]
- Ethics Continuing Education [20]
- Regulatory Review Course [21]
- Peer Review [22]
- CPA Exam [23]
- Samples - Audits, Review or Compilation [27]
- Community Service – Free Services [29]
- Notice to Clients [31]
- Administrative Penalty not to exceed maximum set forth in Section 5116 [32]

(Reference Section 5097)

## **SECTION 69**

### **CERTIFICATION OF APPLICANT'S EXPERIENCE**

Minimum Penalty: Correction of Violation

Maximum Penalty: Revocation [1-2]

#### **CONDITIONS OF PROBATION**

Required:

- If revocation stayed [1-2,4], 3 years probation
- Standard Conditions of Probation [5-14]

If warranted:

- Suspension [3] with/without stay [4]
- Supervised Practice [15]
- Ethics Continuing Education [20]
- Regulatory Review Course [21]
- Community Service – Free Services [29]
- Administrative Penalty not to exceed maximum set forth in Section 5116 [32]

## ARTICLE 11: ACCOUNTANCY CORPORATION RULES

### SECTION 75.8

#### **SECURITY FOR CLAIMS AGAINST AN ACCOUNTANCY CORPORATION**

Minimum Penalty: Correction of Violation

Maximum Penalty: Revocation [1-2]

#### **CONDITIONS OF PROBATION**

Required:

- If revocation stayed [4], probation of 3 to 5 years
- Standard Conditions of Probation [5-14]

If warranted:

- Supervised Practice [15]
- Restitution [16]
- Restricted Practice [17]
- Ethics Continuing Education [20]
- Regulatory Review Course [21]
- Continuing Education Courses [25]
- Samples - Audit, Review or Compilation [27]
- Prohibition from Handling Funds [28]
- Community Service – Free Services [29]
- Notification to Clients [31]
- Administrative Penalty not to exceed maximum set forth in Section 5116 [32]

### SECTION 75.9

#### **SHARES: OWNERSHIP AND TRANSFER**

Minimum Penalty: Correction of Violation

Maximum Penalty: Revocation stayed, 90 day suspension, 3 years probation [1-4]

#### **CONDITIONS OF PROBATION**

Required:

- Standard Conditions of Probation [5-14]

If warranted:

- Suspension [3] with/without stay [4]
- Restricted Practice [17]
- Ethics Continuing Education [20]
- Regulatory Review Course [21]
- Administrative Penalty not to exceed maximum set forth in Section 5116 [32]

### SECTION 75.11(b)

#### **CERTIFICATION OF REGISTRATION; CONTINUING VALIDITY; NOTIFICATION OF NAME AND ADDRESS CHANGES**

Minimum Penalty: Correction of Violation

Maximum Penalty: Revocation stayed, 90 day suspension, 3 years probation [1-4]

**CONDITIONS OF PROBATION**

Required:

- Standard Conditions of Probation [5-14]

If warranted:

- Suspension [3] with/without stay [4]
- Restricted Practice [17]
- Ethics Continuing Education [20]
- Regulatory Review Course [21]
- Administrative Penalty not to exceed maximum set forth in Section 5116 [32]

**ARTICLE 12: CONTINUING EDUCATION RULES**

**SECTION 81(a)**

**CONTINUING EDUCATION REQUIREMENTS FOR RENEWING AN EXPIRED LICENSE**

Minimum Penalty:

Correction of Violation and/or Continuing Education Courses [25]

Maximum Penalty:

Revocation [1-2]

**CONDITIONS OF PROBATION**

Required:

- If revocation stayed [4], 3 years probation
- Standard Conditions of Probation [5-14]

If warranted:

- Suspension [3] with/without stay [4]
- Supervised Practice [15]
- Restricted Practice [17]
- Ethics Continuing Education [20]
- Regulatory Review Course [21]
- Continuing Education Courses [25]  
Samples – Audit, Review or Compilation [27]
- Administrative Penalty not to exceed maximum set forth in Section 5116 [32]

**SECTION 87**

**BASIC REQUIREMENTS (Continuing Education)**

Minimum Penalty:

Correction of Violation and/or Continuing Education Courses [25]

Maximum Penalty:

Revocation [1-2]

**CONDITIONS OF PROBATION**

Required:

- If revocation stayed [4], 3 years probation
- Standard Conditions of Probation [5-14]

If warranted:

- Suspension [3] with/without stay [4]
- Supervised Practice [15]
- Restricted Practice [17]

- Ethics Continuing Education [20]
- Regulatory Review Course [21]
- Continuing Education Courses [25]
- Samples – Audit, Review or Compilation [27]
- Administrative Penalty not to exceed maximum set forth in Section 5116 [32]

**SECTION 87.5**

**ADDITIONAL CONTINUING EDUCATION REQUIREMENTS**

Minimum Penalty:

Correction of Violation

Maximum Penalty:

Revocation stayed, 3 years probation [1-2,4]

**CONDITIONS OF PROBATION**

Required:

- Standard Conditions of Probation [5-14]

If warranted:

- Ethics Continuing Education [20]
- Regulatory Review Course [21]
- Continuing Education Courses [25]
- Active License Status [26]
- Samples - Audit, Review or Compilation [27]
- Administrative Penalty not to exceed maximum set forth in Section 5116 [32]

**SECTION 87.6**

**RECORDS REVIEW  
CONTINUING EDUCATION REQUIREMENTS**

Minimum Penalty:

Correction of Violation

Maximum Penalty:

Revocation stayed, 3 years probation [1-2,4]

**CONDITIONS OF PROBATION**

Required:

- Standard Conditions of Probation [5-14]

If warranted:

- Ethics Continuing Education [20]
- Regulatory Review Course [21]
- Continuing Education Courses [25]
- Samples - Audit, Review or Compilation [27]
- Administrative Penalty not to exceed maximum set forth in Section 5116 [32]

**SECTION 87.8**

**REGULATORY REVIEW COURSE**

Minimum Penalty:

Correction of Violation

Maximum Penalty:

Revocation stayed, 3 years probation [1-2,4]

**CONDITIONS OF PROBATION**

Required: • Standard Conditions of Probation [5-14]

If warranted: • Ethics Continuing Education [20]  
• Continuing Education Courses [25]  
• Administrative Penalty not to exceed maximum set forth in Section 5116 [32]

## **SECTION 89**

### **CONTROL AND REPORTING**

Minimum Penalty: Correction of Violation

Maximum Penalty: Revocation [1-2]

#### **CONDITIONS OF PROBATION**

Required: • If revocation stayed [1-2, 4], 3 years probation  
• Standard Conditions of Probation [5-14]

If warranted: • Ethics Continuing Education [20]  
• Regulatory Review Course [21]  
• Continuing Education Courses [25]  
• Administrative Penalty not to exceed maximum set forth in Section 5116 [32]

## **SECTION 89.1**

### **REPORTS**

Minimum Penalty: Correction of Violation

Maximum Penalty: Revocation stayed, 3 years probation [1-2,4]

#### **CONDITIONS OF PROBATION**

Required: • Standard Conditions of Probation [5-14]

If warranted: • Ethics Continuing Education [20]  
• Regulatory Review Course [21]  
• Continuing Education Courses [25]  
• Samples - Audit, Review or Compilation [27]  
• Administrative Penalty not to exceed maximum set forth in Section 5116 [32]

## **SECTION 90**

### **EXCEPTIONS AND EXTENSIONS**

Minimum Penalty: Continuing Education [25]

Maximum Penalty: Revocation [1-2]

#### **CONDITIONS OF PROBATION**

Required: • If revocation stayed [4] 3 years probation  
• Standard Conditions of Probation [5-14]

If warranted:

- Suspension [3] with/without stay [4]
- Supervised Practice [15]
- Restricted Practice [17]
- Ethics Continuing Education [20]
- Regulatory Review Course [21]
- Continuing Education Courses [25]
- Samples – Audit, Review or Compilation [27]
- Administrative Penalty not to exceed maximum set forth in Section 5116 [32]

## **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:

- Standard Conditions of Probation [5-14]
- Restitution [16]
- Compliance with Citation Abatement Order and/or Fine

If warranted:

- Administrative Penalty not to exceed maximum set forth in Section 5116 [32]

## **VIOLATION OF PROBATION**

Minimum penalty - Citation and Fine (13)

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 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**

**California Code of Regulations 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.**

**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 Section 5122 immediately following).

## **INJUNCTIONS**

Section 5122 provides that "Whenever in the judgment of the CBA (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 which constitute, or will constitute, an offense against this chapter, the CBA may make application to the appropriate court for an order enjoining the acts

or practices, and upon showing by the CBA 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.

# **California Board of Accountancy**

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## VIII. MODEL DISCIPLINARY ORDERS

1. **Revocation - Single Cause:**

\_\_\_\_\_ License No. \_\_\_\_\_ issued  
(Ex: Certified Public Accountant) (Ex: 00000)

to respondent \_\_\_\_\_ is revoked.  
(Name)

2. **Revocation - Multiple Causes:**

\_\_\_\_\_ License No. \_\_\_\_\_ issued to respondent \_\_\_\_\_ is revoked pursuant to Determination(s) of Issues \_\_\_\_\_ separately and for all of them.

3. **Suspension:**

\_\_\_\_\_ License No. \_\_\_\_\_ issued to respondent \_\_\_\_\_ is suspended for \_\_\_\_\_. During the period of suspension the 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 5051.

4. **Standard Stay Order:**

However, \_\_\_\_\_ (revocation/suspension) \_\_\_\_\_ is stayed and respondent is placed on probation for \_\_\_\_\_ years upon the following terms and conditions:

## **STANDARD CONDITIONS OF PROBATION (TO BE INCLUDED IN ALL CASES OF PROBATION)**

**5. 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.

**6. Cost Reimbursement**

Respondent shall reimburse the CBA \$\_\_\_\_\_ for its investigation and prosecution costs. The payment shall be made within \_\_ days/months of the date the 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].

**7. Submit Written Reports**

Respondent shall submit, within 10 days of completion of the quarter, written reports to the CBA on a form obtained from the CBA. The 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 compliance with all the terms and conditions of probation. Respondent shall immediately execute all release of information forms as may be required by the CBA or its representatives.

**8. Personal Appearances**

Respondent shall, during the period of probation, appear in person at interviews/meetings as directed by the CBA or its designated representatives, provided such notification is accomplished in a timely manner.

**9. Comply With Probation**

Respondent shall fully comply with the terms and conditions of the probation imposed by the CBA and shall cooperate fully with representatives of the California Board of Accountancy in its monitoring and investigation of the respondent's compliance with probation terms and conditions.

**10. Practice Investigation**

Respondent shall be subject to, and shall permit, a practice investigation of the respondent's professional practice. Such a practice investigation shall be conducted by representatives of the CBA, provided notification of such review is accomplished in a timely manner.

**11. Comply With Citations**

Respondent shall comply with all final orders resulting from citations issued by the California Board of Accountancy.

**12. Tolling of Probation for Out-of-State Residence/Practice**

In the event respondent should leave California to reside or practice outside this state, respondent must notify the 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 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.

**13. Violation of Probation**

If respondent violates probation in any respect, the CBA, after giving 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 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 95, to a licensee for a violation of a term or condition contained in a decision placing that licensee on probation.

**14. Completion of Probation**

Upon successful completion of probation, respondent's license will be fully restored.

## **OPTIONAL CONDITIONS OF PROBATION (To Be Included In Cases Where Appropriate)**

**15. Supervised Practice**

Within thirty days of the effective date of this decision, respondent shall submit to the 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.

**16. Restitution**

Respondent shall make restitution to \_\_\_\_\_ in the amount of \$\_\_\_\_\_ and shall provide the CBA with a written release from \_\_\_\_\_ attesting that full restitution has been paid. Restitution shall be completed before the termination of probation.

**17. Restricted Practice**

Respondent shall be prohibited from \_\_\_\_\_ (performing certain types of engagements such as audits, reviews, compilations, or attestation engagements, etc.), and/or from practice in \_\_\_\_\_ (certain specialty areas, i.e. bookkeeping, write-up, tax, auditing, etc.).

**18. Engagement Letters**

Respondent shall use engagement letters with each engagement accepted during probation and shall provide copies of same to the CBA or its designee upon request.

**19. 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 CBA or its designee upon reasonable notice.

**20. Ethics Continuing Education**

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 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 no later than 100 days prior to the termination of probation shall constitute a violation of probation.

## 21. Regulatory Review Course

Respondent shall complete a CBA-approved course on the provisions of the California Accountancy Act and the California Board of Accountancy 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) hours.

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 no later than 100 days prior to the termination of probation shall constitute a violation of probation.

## 22. 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 California Business and Professions Code Section 5076 and California Code of Regulations, Title 16, Division 1, Article 6, at respondent's expense. The specific engagements to be reviewed shall be at the discretion of the peer reviewer. The peer review shall be completed within a period of time designated and specified in writing by the CBA or its designee, which time frame shall be incorporated as a condition of this probation.

Within 45 days of the peer review report being accepted by a Board-recognized peer review program provider, respondent shall submit to the 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, any materials documenting completion of any or all of the prescribed remedial or corrective actions.

## 23. CPA Exam

Respondent shall take and pass the (section) of the CPA examination (within a given period of time - 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 fails to pass said examination within the time period provided or within two attempts, respondent shall so notify the CBA and shall cease practice until respondent takes and successfully passes said exam, 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 no later than 100 days prior to the termination of probation shall constitute a violation of probation.

**24. 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 CBA and shall cease practice until respondent takes 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 no later than 100 days prior to the termination of probation shall constitute a violation of probation.

**25. Continuing Education Courses**

Respondent shall complete and provide proper documentation of (specified) professional education courses within (a designated time). This (shall be/shall not be) in addition to continuing education requirements for relicensing.

OR

Respondent shall complete professional education courses as specified by the CBA or its designee at the time of respondent's first probation appearance. The professional education courses shall be completed within a period of time designated and specified in writing by the CBA or its designee, which time frame shall be incorporated as a condition of this probation. This (shall be/shall not be) in addition to continuing education requirements for relicensing.

Failure to satisfactorily complete the required courses as scheduled or failure to complete same no later than 100 days prior to the termination of probation shall constitute a violation of probation.

**26. Active License Status**

Respondent shall at all times maintain an active license status with the CBA, including during any period of suspension. If the license is expired at the time the CBA's decision becomes effective, the license must be renewed within 30 days of the effective date of the decision.

**27. Samples - Audit, Review or Compilation**

During the period of probation, if the respondent undertakes an audit, review or compilation engagement, the respondent shall submit to the 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.

**28. Prohibition from Handling Funds**

During the period of probation the 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.

**29. Community Service - Free Services**

Respondent shall participate in a community service program as directed by the CBA or its designee in which 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 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 performance nor for the product or services rendered.

**30. Relinquish Certificate**

Respondent shall relinquish and shall forward or deliver the certificate or permit to practice to the CBA office within 10 days of the effective date of this decision and order.

**31. Notification to Clients/Cessation of Practice**

In orders that provide for a cessation or suspension of practice, respondent shall comply with procedures provided by the California Board of Accountancy or its designee regarding notification to, and management of, clients.

**32. Administrative Penalty**

Respondent shall pay to the CBA 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 CBA's decision is final.

**33. Medical Treatment**

Respondent shall undergo and continue treatment by a licensed physician of respondent's choice and approved by the 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 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 is physically fit to practice.

**34. Psychotherapist**

Respondent shall undergo and continue treatment by a licensed psychotherapist of respondent's choice and approved by the CBA or its designee until the treating psychotherapist certifies in writing in a report to the CBA or its designee that treatment is no longer necessary. Respondent shall have the treating psychotherapist submit reports to the CBA at intervals determined by the 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 is mentally fit to practice.

**35. Rehabilitation Program/Chemical Dependence**

Respondent shall successfully complete or shall have successfully completed a rehabilitation program for chemical dependence that the 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, within a reasonable period of time as determined by the 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 must attend support groups, (e.g. Narcotics Anonymous, Alcoholic Anonymous etc.), as directed by the CBA or its designee. Respondent is responsible for all costs of such a program.

**36. 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.

**37. Drugs - Screening**

Respondent shall participate or shall have participated in a drug screening program acceptable to the CBA and shall have reports submitted by the program. Respondent is responsible for all costs associated with said screening and reporting.

**38. Biological Fluid Testing**

Respondent, at any time during the period of probation, shall fully cooperate with the 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 33-38 shall be used when evidence indicates respondent may have physical or mental ailment(s) or condition(s) which contributed to the violation or when the same are alleged by respondent to be a contributing factor to the violation(s).



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**CPC Item II.**  
March 21, 2013

**CBA Item IX.B.2.**  
March 21-22, 2013

**Discussion and Possible Action on a Legislative Proposal to Amend  
Section 5096(e) Requiring Notification to the CBA of Pending Criminal  
Charges for the Practice Privilege Set to Take Effect on July 1, 2013**

**Presented by:** Rafael Ixta, Chief, Enforcement Division  
**Date:** February 28, 2013

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**Purpose of the Item**

The purpose of this agenda item is to provide the California Board of Accountancy (CBA) members with proposed statutory language to require an out-of-state licensee, who is exercising a practice privilege in California, to notify the CBA of pending criminal charges.

**Action(s) Needed**

The CBA will be asked to determine whether to require an out-of-state licensee exercising a practice privilege in California to notify the CBA of any pending criminal charges and approve legislative language.

**Background**

On September 20, 2012, Governor Brown signed SB 1405, which, in part, amended California's practice privilege rights for out-of-state licensees beginning July 1, 2013. The new provisions will allow an individual whose principal place of business is not in the state, and who has a valid and current license to practice public accountancy in another state, may, subject to certain conditions, qualify to practice in California under a practice privilege. Most individuals will qualify because they are licensed in a state that has substantially equivalent licensing requirements to California; however, there are other qualification avenues for those who are not. This practice privilege can be exercised in California without providing notice to the CBA or paying a fee. However, if an individual will be performing certain attest functions, he or she will need to do so through a firm that is registered by the CBA.

In January 2013 staff brought to the Committee on Professional Conduct (CPC) an issue paper recommending approval of legislation requiring an out-of-state licensee to report any pending criminal charges. Prior to making a final recommendation to the CBA, the CPC directed staff to research what other state boards of accountancy require regarding notification and to draft legislative language that does not require the cessation of practice privilege rights.

## **Discussion and Possible Action on a Legislative Proposal to Amend Section 5096(e) Requiring Notification to the CBA of Pending Criminal Charges for the Practice Privilege Set to Take Effect on July 1, 2013**

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### **Comments**

#### *Other State Boards*

Staff sent surveys to approximately 18 percent of NASBA jurisdictions, including Arizona, Florida, Illinois, Nevada, New Jersey, New York, Ohio, Oregon, Texas, and Washington. As of February 28, 2013, five of the ten jurisdictions contacted, Arizona, Nevada, Washington, and Ohio responded; and only Nevada requires an out-of-state licensee to report pending criminal charges. New York has similar cessation event and pre-notification requirements as California; however, notification of pending criminal charges is not required.

Staff reviewed the websites for Texas, New Jersey, Florida, Illinois, and Oregon; it appears there is no requirement to notify the states of pending criminal charges. Staff is following up with these five jurisdictions to confirm that there is no notification requirement. Should these jurisdictions provide additional information subsequent to the drafting of this issue paper, it will be provided at the March CBA meeting.

#### *California Licensees*

Upon application for licensure, all California CPA applicants are required to submit fingerprints to the California Department of Justice (DOJ). Whenever a California licensee, who has a record of fingerprints on file with the DOJ, is arrested or has criminal charges filed, the CBA receives a notification directly from the DOJ. Once notification is received, staff review the charges and may initiate an investigation. Depending on the facts and circumstances, staff may file an Accusation or pursue other available remedies such as an Administrative Suspension Order, a Temporary Restraining Order, or an Interim Suspension Order.

#### *Out-of-State Licensees*

Effective July 1, 2013, out-of-state licensees who exercise a practice privilege in California are required to notify the CBA by submitting a Notice of Cessation of Practice Privilege Form within 15 days if they acquire any of the events listed in Section 5096(e)(6-9), which include incidents of fraud, gross negligence, theft, embezzlement, reckless accounting practice, or if the licensee is barred by the United States Securities and Exchange Commission or the Public Company Accounting Oversight Board, or if the licensee's right to practice is suspended by any government entity (**Attachment**). The licensee may not resume practice unless and until they receive written permission from the CBA. Out-of-state licensees who exercise a practice privilege in California are not, however, required to notify the CBA of any pending criminal charges.

#### *Notification Requirement*

Present law provides for notification of pending criminal charges of California licensees by the DOJ. However, the DOJ is not able to provide similar notification to the CBA for out-of-state licensees who exercised a practice privilege in California. With notification by out-of-state licensees, the CBA will be able to evaluate the pending criminal charges

**Discussion and Possible Action on a Legislative Proposal to Amend Section 5096(e) Requiring Notification to the CBA of Pending Criminal Charges for the Practice Privilege Set to Take Effect on July 1, 2013**

Page 3 of 3

and may initiate appropriate enforcement actions. This will allow for consistent treatment of all CPAs practicing in California.

**Fiscal/Economic Impact Considerations**

None.

**Recommendation**

Staff recommends that the CBA approve the proposed statutory language in the **Attachment**, to amend Section 5096(e). If approved, staff will work with the Senate Business, Professions, and Economic Development Committee on including the language in the urgency omnibus bill.

**Attachment**

Proposed Change to Business and Code Section 5096(e).

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**Attachment****Proposed Change to Business and Code Section 5096(e)(7)**Excerpt from 5096

(e) An individual who holds a practice privilege under this article:

(1) Is subject to the personal and subject matter jurisdiction and disciplinary authority of the board and the courts of this state.

(2) Shall comply with the provisions of this chapter, board regulations, and other laws, regulations, and professional standards applicable to the practice of public accountancy by the licensees of this state and to any other laws and regulations applicable to individuals practicing under practice privileges in this state except the individual is deemed, solely for the purpose of this article, to have met the continuing education requirements and ethics examination requirements of this state when the individual has met the examination and continuing education requirements of the state in which the individual holds the valid license, certificate, or permit on which the substantial equivalency is based.

(3) Shall not provide public accountancy services in this state from any office located in this state, except as an employee of a firm registered in this state. This paragraph does not apply to public accountancy services provided to a client at the client's place of business or residence.

(4) Is deemed to have appointed the regulatory agency of the state that issued the individual's certificate, license, or permit upon which substantial equivalency is based as the individual's agent on whom notices, subpoenas, or other process may be served in any action or proceeding by the board against the individual.

(5) Shall cooperate with any board investigation or inquiry and shall timely respond to a board investigation, inquiry, request, notice, demand, or subpoena for information or documents and timely provide to the board the identified information and documents.

(6) Shall cease exercising the practice privilege in this state if the regulatory agency in the state in which the individual's certificate, license, or permit was issued takes disciplinary action resulting in the suspension or revocation, including stayed suspension, stayed revocation, or probation of the individual's certificate, license, or permit, or takes other disciplinary action against the individual's certificate, license, or permit that arises from any of the following:

(A) Gross negligence, recklessness, or intentional wrongdoing relating to the practice of public accountancy.

(B) Fraud or misappropriation of funds.

(C) Preparation, publication, or dissemination of false, fraudulent, or materially incomplete or misleading financial statements, reports, or information.

(7) Shall cease exercising the practice privilege in this state if convicted in any jurisdiction of any crime involving dishonesty, including, but not limited to, embezzlement, theft, misappropriation of funds or property, or obtaining money, property, or other valuable consideration by fraudulent means or false pretenses.

(8) Shall cease exercising the practice privilege if the United States Securities and Exchange Commission or the Public Company Accounting Oversight Board bars the individual from practicing before them.

(9) Shall cease exercising the practice privilege if any governmental body or agency suspends the right of the individual to practice before the body or agency.

(10) Shall notify the board of any pending criminal charges in any jurisdiction other than minor traffic violation.

(f) An individual who is required to cease practice pursuant to paragraphs (6) to (9), inclusive, of subdivision (e) shall notify the board within 15 calendar days, on a form prescribed by the board, and shall not practice public accountancy in this state pursuant to this section until he or she has received from the board written permission to do so.



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**LC Item II.**  
March 21, 2013

**CBA Item IX.C.2.**  
March 21-22, 2013

**Update Regarding CBA Approved 2013 Legislative Proposal for Removing Specified Citation and Fine Information from the CBA Website**

**Presented by:** Andrew R. Breece, Legislative Coordinator

**Date:** February 27, 2013

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**Purpose of the Item**

The purpose of this agenda item is to update the California Board of Accountancy (CBA) on the status of seeking legislation to remove citation and fine information from its website after five years provided the fine was \$1,500 or less.

**Action(s) Needed**

The CBA is being asked to provide staff direction regarding this legislative proposal.

**Background**

On January 1, 2012, amendments to Business and Professions Code Section 27 took effect as a result of the passage of Senate Bill 706 (Price, Chapter 712, 2011). These amendments added the CBA to a list of boards and bureaus that are required to post enforcement actions on their websites.

As was presented at the November 2012 CBA meeting, "other enforcement actions," as used in subsection (a) of Section 27, has been interpreted to mean that citation and fine information must now be placed on the CBA website. Staff presented information on how the CBA was implementing the requirements. Additionally, members were provided with proposed statutory language that would authorize the removal of specified citation and fine information from the CBA website after five years, provided that the fine was \$1,500 or less (**Attachment 1**).

The CBA voted to approve the proposed language and initiate the legislative process.

At the January 2013 CBA meeting, staff provided an update regarding the status of the legislative proposal. Staff reported they were unsuccessful in securing an author. Members directed staff to continue its efforts to locate an author and report back to the CBA on its progress.

**Comments**

Following the January 2013 CBA meeting, per CBA member direction, staff continued its efforts to identify an author for the CBA's legislative proposal. Although staff made contacts with various legislators, it was not able to secure an author.

## **Update Regarding CBA Approved 2013 Legislative Proposal for Removing Specified Citation and Fine Information from the CBA Website**

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The proposal in its current form would not impact the removal of citations until 2017, five years after 2012 when citation web posting became law. With this in mind, staff believe additional time to further analyze the proposal and work with stakeholders would be beneficial. Following its analysis, staff can report back to the CBA at a time in the future to discuss its findings and determine whether the CBA members continue to have an interest in moving forward with the proposal.

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

None

### **Recommendation**

Staff recommend that members consider conducting further analysis on this proposal and direct staff to continue to work with stakeholders and report back to the CBA at a future meeting with findings and recommendations on how best to move forward.

### **Attachment**

Proposed Language for Section 5117 of the Business and Professions Code

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**Attachment****Proposed Language for Section 5117 of the Business and Professions Code****§5117.**

The board shall not publish on the Internet the final determination of a citation and fine of one thousand five hundred dollars (\$1,500) or less issued against a licensee pursuant to Section 125.9 for a period of time in excess of five years from the date of issuance of the citation.

**CALIFORNIA BOARD OF ACCOUNTANCY  
LEGISLATIVE ANALYSIS  
AB 186**

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**Subject:** Military spouses: temporary licenses.  
**Version:** Introduced

**Author:** Maienschein  
**Sponsor:** None

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**Summary**

This bill would authorize a board within the Department of Consumer Affairs (DCA) to issue a provisional license to a spouse or domestic partner of an active duty member of the Armed Forces of the United States who is assigned to a duty station in the State of California under official active duty military orders.

**Recommendation**

Support if amended to establish certain consumer protection elements, to include:

- (1) Clarifying that boards have the authority to deny a provisional license pursuant to Business and Professions Code Section 480;
- (2) Clarifying that boards have the authority to suspend or revoke a provisional license if a board determines that the licensee violates a condition to practice in California;
- (3) Requiring the individual to have a current license with the authority to practice the identified profession in the state that issued the individual's license; and
- (4) Clarifying the status of a provisional license once a permanent license is issued.

**Background**

AB 1904 (Block, Chapter 399, Statutes of 2012) authorized a board within the DCA to expedite the licensure process to a spouse or domestic partner of an active duty member of the Armed Forces of the United States who is assigned to a duty station in the State of California under official active duty military orders, provided that the individual:

- (1) Supplies evidence satisfactory to the board that the applicant is married to, or in a domestic partnership or other legal union with, an active duty member of the Armed Forces of the United States who is assigned to a duty station in this state under official active duty military orders.
- (2) Holds a current license in another state, district, or territory of the United States in the profession or vocation for which he or she seeks a license from the board.

AB 1904, as originally introduced, required boards to issue a temporary license for up to 180 days to individuals who met specific requirements. During the March 2012 CBA meeting, CBA members voted to support the bill if there were minor amendments similar to the suggested amendments above.

According to the California Research Bureau, approximately 72,500 military spouses reside in California. One-third of those individuals are estimated to be employed in a profession that has licensing requirements. However, according to the author's office, many of these individuals have experienced difficulty in obtaining a license to practice in California.

**Analysis**

As presently drafted, this bill would allow the CBA to provide a provisional license to an applicant, who is a spouse or domestic partner of an active duty member of the Armed Forces of the United States who is assigned to a duty station in the State of California under official active duty military orders, for up to 18 months, in addition to expediting the licensure process. Although the bill states that a board *may* provide a provisional license, after discussion with the author's office, staff have been informed that the author intends to amend the language to require boards to issue a provisional license by replacing *may* with *shall*. According to the author's office, a provisional license is intended to allow an applicant to practice immediately upon filing an application.

The bill does not contain any authority for boards to deny a provisional license as it does with all other licenses. Additionally, there is no provision in the bill authorizing a board to suspend or revoke the license if a board determines that the licensee has violated a condition to practice in California.

Further, the bill does not require the applicant to have a current license to practice in order to obtain a provisional license. As a result, an applicant with an inactive license, who has possibly not met continuing education or other competency requirements in the jurisdiction where the license was obtained, could receive a provisional license to practice in California.

Finally, the bill does not provide a determination on the status of the provisional license if permanent licensure is obtained before the 18 month period ends.

Staff is working with the author's office to determine if the practice privilege provisions that become effective July 1, 2013, would meet the author's intentions. Under the new practice privilege, most out-of-state licensees will be authorized to have immediate practice rights in California.

Staff was also informed by the author's office that it is considering amendments that would address three of the issues identified by CBA Staff in the recommendation. CBA Staff will continue to monitor and provide an update at the May CBA meeting.

**Fiscal Estimate**

This bill would likely result in a minor but absorbable cost in staff time.

**Support/Opposition**

Support: None on file.

Opposition: None on file.

**Effective/Operative Date**

January 1, 2014

**Related Bills**

AB 1904 (Block, Chapter 399, 2012) authorized a board within the DCA to expedite the licensure process to a spouse or domestic partner of an active duty member of the

**AB 186**

Page 3 of 3

Armed Forces of the United States who is assigned to a duty station in the State of California under official active duty military orders.

**Attachment**

AB 186

**ASSEMBLY BILL****No. 186**

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**Introduced by Assembly Member Maienschein  
(Principal coauthor: Assembly Member Hagman)**

January 28, 2013

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An act to amend Section 115.5 of the Business and Professions Code, relating to professions and vocations, and making an appropriation therefor.

## LEGISLATIVE COUNSEL'S DIGEST

AB 186, as introduced, Maienschein. Professions and vocations: military spouses: temporary licenses.

Existing law provides for the licensure and regulation of various professions and vocations by boards within the Department of Consumer Affairs. Existing law provides for the issuance of reciprocal licenses in certain fields where the applicant, among other requirements, has a license to practice within that field in another jurisdiction, as specified. Under existing law, licensing fees imposed by certain boards within the department are deposited in funds that are continuously appropriated. Existing law requires a board within the department to expedite the licensure process for an applicant who holds a current license in another jurisdiction in the same profession or vocation and who supplies satisfactory evidence of being married to, or in a domestic partnership or other legal union with, an active duty member of the Armed Forces of the United States who is assigned to a duty station in California under official active duty military orders.

This bill would authorize a board within the department to issue a provisional license to an applicant who qualifies for an expedited license

pursuant to the above-described provision. The bill would require the provisional license to expire after 18 months.

Vote: majority. Appropriation: yes. Fiscal committee: yes.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

- 1 SECTION 1. Section 115.5 of the Business and Professions
- 2 Code is amended to read:
- 3 115.5. (a) A board within the department shall expedite the
- 4 licensure process for an applicant who meets both of the following
- 5 requirements:
- 6 (1) Supplies evidence satisfactory to the board that the applicant
- 7 is married to, or in a domestic partnership or other legal union
- 8 with, an active duty member of the Armed Forces of the United
- 9 States who is assigned to a duty station in this state under official
- 10 active duty military orders.
- 11 (2) Holds a current license in another state, district, or territory
- 12 of the United States in the profession or vocation for which he or
- 13 she seeks a license from the board.
- 14 (b) *For each applicant who is eligible for an expedited license*
- 15 *pursuant to subdivision (a), the board may provide a provisional*
- 16 *license while the board processes the application for licensure.*
- 17 *The provisional license shall expire 18 months after issuance.*
- 18 ~~(b)~~
- 19 (c) A board may adopt regulations necessary to administer this
- 20 section.

**CALIFORNIA BOARD OF ACCOUNTANCY  
LEGISLATIVE ANALYSIS  
AB 291**

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**Subject:** California Sunset Review Commission  
**Version:** Introduced

**Author:** Nestande  
**Sponsor:** None

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**Summary**

This bill would establish the California Sunset Review Commission (CSRC) in replacement of the Joint Sunset Review Committee (JSRC). This bill would require the CSRC to extensively examine each state agency, authority, board, bureau, commission, conservancy, council, department, division, and office to identify each entity's overall necessity, cost-effectiveness, and competency, and would require the CSRC to report to the Legislature with recommended changes.

**Recommendation**

Watch and continue to work with the Department of Consumer Affairs' (DCA) Legislative and Policy Review Unit to determine the impact on the CBA as well as other DCA entities.

**Background**

California originally adopted the sunset review process in 1994 to assist the Legislature in evaluating the performance of various state entities. A "sunset review" is an assessment of a state entity's necessity, success, and cost-efficiency. Sunset review is conducted pursuant to a "sunset date" – an expiration date for the agency. Pursuant to Government Code Section 9147.7, at the conclusion of a sunset review, the committee conducting the review may:

- Let the agency terminate at the sunset date, or
- Continue the agency; and may
- Make recommendations for improving operations, and/or
- Recommend legislation to aid the agency's mandate.

The JSRC was established in Government Code to oversee the sunset review process by identifying and eliminating waste, duplication, and inefficiency in government entities.

The CBA has its own mandate to undergo a legislative review. Specifically, Business and Professions Code (B&P Code) Section 5000 requires the CBA to undergo a review by appropriate policy committees of the State Legislature. In the CBA's last sunset review, the CBA provided a report to the Legislature regarding (1) questions and recommendations made to the CBA during the prior sunset review, and (2) the CBA's licensing, enforcement, and administrative activities for each of the previous four fiscal years, and testified before the Assembly BP&CP Committee and Senate BP&ED Committee regarding the contents of the report.

At present, the JSRC defers the CBA's sunset review to the policy committees, thus eliminating the CBA from undergoing multiple reviews from different legislative bodies.

Sunset Review is not specific to California, according to the author's office, over 20 states, including Texas, Delaware, Colorado, and Arizona, currently have some form of sunset review process. The role and extensiveness of the sunset review process varies between states. Some sunset reviews function in a limited role, while others conduct very expansive reviews of state government.

**Analysis**

This bill would establish the CSRC within the Executive Branch to replace the JSRC. Pursuant to the proposed amendments in Government Code, the CSRC would perform a more extensive sunset review of state agencies. The CSRC would consist of ten members: eight appointed by the Governor to serve four year terms, and two legislators appointed by the Senate and Assembly Committee on Rules to serve two year terms. The CSRC would appoint a Director to hire and manage a sufficient number of staff to facilitate the CSRC's responsibilities. The proposed commission would allocate more time and resources to evaluate agencies, which could result in significant changes to the CBA and other boards, departments, and agencies.

This bill would require the CBA to be subject to CSRC's review to determine the CBA's necessity and whether there are any needed statutory, regulatory, or administrative changes. In addition to the report the CBA submits to the policy committees, the CBA would be required to submit a self-evaluation report to the CSRC prior to the sunset review. After the submission of the self-evaluation report, CSRC staff would work closely with the CBA to construct their own evaluation—a process the policy committees do not perform. If the CSRC determines there are necessary changes, they would develop legislation to initiate those corrections. After the CBA is evaluated, CSRC would conduct a written report of its evaluation for the State Legislature, and conduct a public hearing on its recommendations.

This bill could inadvertently make the CBA subject to two sunset reviews, pursuant to B&P Code Section 5000 and proposed Government Code 9147.9. Although the JSRC currently defers the CBA's sunset review to the policy committees, the CSRC may not extend that deferral, and the CBA would undergo sunset reviews by multiple entities.

The author's office states this bill is necessary to reduce government waste, and enhance government transparency and efficiency.

**Fiscal Estimate**

Unknown; however, staff time to complete the assessment and assist the CSRC with their own review will likely result in the majority of the cost to the CBA.

**Support/Opposition**

Support: None on file.

Opposition: None on file.

**Effective/Operative Date**

**AB 291**

Page 3 of 3

This bill does not establish a date when the proposed provisions would become effective. The date in which this would become effective will be amended into the bill at a later date.

**Related Bills**

Assembly Bill (AB) 1659 (Huber, Chapter 666, 2010) established the JSRC to identify and eliminate waste, duplication, and inefficiency in government entities through a sunset review over a 15 year period.

**Attachment**

AB 291

**ASSEMBLY BILL****No. 291**

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**Introduced by Assembly Member Nestande**February 11, 2013

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An act to amend and repeal Sections 9147.7, 9148.50, 9148.51, and 9148.52 of, to amend, repeal, and add Section 9148.8 of, and to add Article 7.6 (commencing with Section 9147.9) to Chapter 1.5 of Part 1 of Division 2 of Title 2 of, the Government Code, relating to state government.

## LEGISLATIVE COUNSEL'S DIGEST

AB 291, as introduced, Nestande. California Sunset Review Commission.

Existing law establishes the Joint Sunset Review Committee, a legislative committee comprised of 10 Members of the Legislature, to identify and eliminate waste, duplication, and inefficiency in government agencies and to conduct a comprehensive analysis of every “eligible agency” for which a date for repeal has been established, to determine if the agency is still necessary and cost effective. Existing law requires each eligible agency scheduled for repeal to submit a report to the committee containing specified information. Existing law requires the committee to take public testimony and evaluate the eligible agency prior to the date the agency is scheduled to be repealed, and requires that an eligible agency be eliminated unless the Legislature enacts a law to extend, consolidate, or reorganize the agency. Existing law also requires the committee to review eligible agencies and evaluate and determine whether each has demonstrated a public need for its continued existence and to submit a report to the Legislature detailing whether an

agency should be terminated, continued, or whether its functions should be modified.

This bill would abolish the Joint Sunset Review Committee on January 1 or an unspecified year. The bill would, commencing on that same January 1, establish the California Sunset Review Commission within the executive branch to assess the continuing need for any agency, as defined, to exist. The commission would consist of 10 members, with 8 members appointed by the Governor and 2 Members of the Legislature each appointed by the Senate Committee on Rules and the Speaker of the Assembly, subject to specified terms. The commission would be under the direction of a director appointed by the commission members. The bill would require the commission to meet regularly and to work with each agency subject to review to evaluate the need for the agency to exist, identify required statutory, regulatory, or management changes, and develop legislative proposals to enact those changes. The bill would require the commission to prepare a report, containing legislative recommendations based on its agency review, to be submitted to the Legislature and would also require the commission to meet certain cost-savings standards within 5 years.

This bill would require an agency to submit a specified self-evaluation report to the commission prior to its review. The bill would require the Legislative Analyst’s Office to provide the commission with an estimate of the staffing needed to perform the commission’s work.

Vote: majority. 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 9147.7 of the Government Code is
- 2 amended to read:
- 3 9147.7. (a) For the purpose of this section, “eligible agency”
- 4 means any agency, authority, board, bureau, commission,
- 5 conservancy, council, department, division, or office of state
- 6 government, however denominated, excluding an agency that is
- 7 constitutionally created or an agency related to postsecondary
- 8 education, for which a date for repeal has been established by
- 9 statute on or after January 1, 2011.
- 10 (b) The Joint Sunset Review Committee is hereby created to
- 11 identify and eliminate waste, duplication, and inefficiency in
- 12 government agencies. The purpose of the committee is to conduct

1 a comprehensive analysis over 15 years, and on a periodic basis  
2 thereafter, of every eligible agency to determine if the agency is  
3 still necessary and cost effective.

4 (c) Each eligible agency scheduled for repeal shall submit to  
5 the committee, on or before December 1 prior to the year it is set  
6 to be repealed, a complete agency report covering the entire period  
7 since last reviewed, including, but not limited to, the following:

8 (1) The purpose and necessity of the agency.

9 (2) A description of the agency budget, priorities, and job  
10 descriptions of employees of the agency.

11 (3) Any programs and projects under the direction of the agency.

12 (4) Measures of the success or failures of the agency and  
13 justifications for the metrics used to evaluate successes and failures.

14 (5) Any recommendations of the agency for changes or  
15 reorganization in order to better fulfill its purpose.

16 (d) The committee shall take public testimony and evaluate the  
17 eligible agency prior to the date the agency is scheduled to be  
18 repealed. An eligible agency shall be eliminated unless the  
19 Legislature enacts a law to extend, consolidate, or reorganize the  
20 eligible agency. No eligible agency shall be extended in perpetuity  
21 unless specifically exempted from the provisions of this section.  
22 The committee may recommend that the Legislature extend the  
23 statutory sunset date for no more than one year to allow the  
24 committee more time to evaluate the eligible agency.

25 (e) The committee shall be comprised of 10 members of the  
26 Legislature. The Senate Committee on Rules shall appoint five  
27 members of the Senate to the committee, not more than three of  
28 whom shall be members of the same political party. The Speaker  
29 of the Assembly shall appoint five members of the Assembly to  
30 the committee, not more than three of whom shall be members of  
31 the same political party. Members shall be appointed within 15  
32 days after the commencement of the regular session. Each member  
33 of the committee who is appointed by the Senate Committee on  
34 Rules or the Speaker of the Assembly shall serve during that  
35 committee member's term of office or until that committee member  
36 no longer is a Member of the Senate or the Assembly, whichever  
37 is applicable. A vacancy on the committee shall be filled in the  
38 same manner as the original appointment. Three Assembly  
39 Members and three Senators who are members of the committee  
40 shall constitute a quorum for the conduct of committee business.

1 Members of the committee shall receive no compensation for their  
2 work with the committee.

3 (f) The committee shall meet not later than 30 days after the  
4 first day of the regular session to choose a chairperson and to  
5 establish the schedule for eligible agency review provided for in  
6 the statutes governing the eligible agencies. The chairperson of  
7 the committee shall alternate every two years between a Member  
8 of the Senate and a Member of the Assembly, and the vice  
9 chairperson of the committee shall be a member of the opposite  
10 house as the chairperson.

11 (g) This section shall not be construed to change the existing  
12 jurisdiction of the budget or policy committees of the Legislature.

13 (h) *This section shall remain in effect only until January 1, 20\_\_,*  
14 *and as of that date is repealed, unless a later enacted statute, that*  
15 *is enacted before January 1, 20\_\_, deletes or extends that date.*

16 SEC. 2. Article 7.6 (commencing with Section 9147.9) is added  
17 to Chapter 1.5 of Part 1 of Division 2 of Title 2 of the Government  
18 Code, to read:

19

20 Article 7.6. California Sunset Review Commission

21

22 9147.9. This article may be cited as the California Sunset  
23 Review Commission Act.

24 9147.11. For the purpose of this section, the following  
25 definitions shall apply:

26 (a) "Agency" means any agency, authority, board, bureau,  
27 commission, conservancy, council, department, division, or office  
28 of state government, however denominated, excluding an agency  
29 that is constitutionally created or an agency related to  
30 postsecondary education.

31 (b) "Commission" means the California Sunset Review  
32 Commission.

33 (c) "Act" means the California Sunset Review Commission Act.

34 9147.13. The California Sunset Review Commission is hereby  
35 created within the executive branch of state government. The  
36 commission shall be located in Sacramento.

37 9147.15. (a) The commission shall consist of 10 members.

38 (1) The Governor shall appoint 8 members to serve a term of  
39 four years.

1 (2) The Senate Committee on Rules shall appoint one Member  
2 of the Senate to serve a term of two years or until that Member is  
3 no longer a Member of the Senate, whichever is applicable.

4 (3) The Speaker of the Assembly shall appoint one Member of  
5 the Assembly to serve a term of two years or until that Member is  
6 no longer a Member of the Assembly, whichever is applicable.

7 (b) The commission shall appoint a chairperson from its  
8 members appointed pursuant to paragraph (1).

9 (c) The Members of the Legislature appointed to the commission  
10 shall serve at the pleasure of the appointing power and shall  
11 participate in the activities of the commission to the extent that  
12 the participation is not incompatible with their respective positions  
13 as Members of the Legislature.

14 (d) A vacancy on the commission shall be filled in the same  
15 manner as the original appointment.

16 (e) (1) The members of the commission shall serve without  
17 compensation, except that each member appointed by the Governor  
18 shall receive fifty dollars (\$50) for each day's attendance at a  
19 meeting of the commission.

20 (2) Each member shall be allowed actual expenses incurred in  
21 the discharge of his or her duties, including travel expenses.

22 9147.17. (a) The commission shall be under the direction of  
23 a director appointed by the commission members.

24 (b) The director shall employ sufficient staff to carry out the  
25 commission's responsibilities.

26 (c) The Legislative Analyst's Office shall estimate the staffing  
27 needed to manage the workload of the commission.

28 9147.19. (a) The commission shall serve in an advisory  
29 capacity and shall meet regularly to assess and review the  
30 continuing need for an agency to exist.

31 (b) Prior to the commission's review of an agency, the  
32 commission staff shall work with each agency to evaluate the need  
33 for the agency to exist, identify required statutory, regulatory, or  
34 management changes, and develop recommendation for legislative  
35 proposals to enact those changes. The commission shall also  
36 consult with interest groups, affected agencies, and other interested  
37 parties in reviewing an agency.

38 (c) In carrying out its duties pursuant to this section, the  
39 commission shall evaluate an agency pursuant to the following  
40 criteria, as applicable:

- 1 (1) The efficiency and effectiveness of the agency’s operations.
- 2 (2) Whether the agency has been successful in achieving its
- 3 mission, goals, and objectives.
- 4 (3) Whether the agency performs duties that are not statutorily
- 5 authorized and, if so, identify the authority for those activities and
- 6 whether those activities are needed.
- 7 (4) Whether the agency has any authority related to fees,
- 8 inspections, enforcement, and penalties.
- 9 (5) Whether the agency’s functions and operations could be less
- 10 burdensome or restrictive while still serving the public.
- 11 (6) Whether the functions of the agency could be effectively
- 12 consolidated or merged with another agency to promote efficiency
- 13 in government.
- 14 (7) Whether the agency’s programs and jurisdiction duplicate
- 15 those of other state agencies.
- 16 (8) Whether the agency promptly and effectively addresses
- 17 complaints.
- 18 (9) Whether the agency utilizes public participation for
- 19 rulemaking and decisions and, if so, whether it is done in an
- 20 effective manner.
- 21 (10) Whether the agency complied with federal and state
- 22 requirements regarding equal employment, privacy rights, and
- 23 purchasing guidelines for underutilized businesses.
- 24 (11) Whether the agency effectively enforces rules regarding
- 25 the potential conflicts of interest of its employees.
- 26 (12) Whether abolishing the agency would cause federal
- 27 government intervention or loss of federal funds.
- 28 (13) Whether the agency’s statutory reporting requirements
- 29 effectively fulfill a useful purpose; and whether there are reporting
- 30 requirements of this agency that are duplicative of other agencies
- 31 or can effectively be combined or consolidated into another agency
- 32 that has similar requirements.
- 33 (d) The commission shall take public testimony from agency
- 34 staff, interest groups, and affected parties relating to whether an
- 35 agency should continue in existence.
- 36 (e) (1) The commission shall prepare a staff report to be
- 37 submitted to the Legislature. The report shall include, but not be
- 38 limited to, specific recommendations to the Legislature to enact
- 39 legislation to do the following:

1 (A) Repeal unnecessary, outdated, or unnecessary statutes,  
2 regulations, and programs.

3 (B) Develop reorganization plans that abolish and streamline  
4 existing agencies, if needed.

5 (2) A report to the Legislature pursuant to this section shall be  
6 submitted in compliance with Section 9795.

7 (3) This subdivision shall become inoperative on January 1,  
8 2018, pursuant to Section 10231.5

9 9147.21. Prior to review by the commission, an agency shall  
10 submit a self-evaluation report to the commission. The report shall  
11 include, but not be limited to, the criteria described in subdivision  
12 (c) of Section 9147.19.

13 9147.23. In order to ensure accountability, the commission  
14 shall demonstrate a 5-to-1 cost savings within the first five years  
15 of sunset review hearings, and every five years thereafter. For  
16 every dollar it costs to run the commission, five dollars (\$5) shall  
17 be saved in streamlining the government process and eliminating  
18 unnecessary agencies.

19 9147.25. This article shall become operative on January 1,  
20 20\_\_.

21 SEC. 3. Section 9148.8 of the Government Code is amended  
22 to read:

23 9148.8. (a) The appropriate policy committee of the Legislature  
24 may evaluate a plan prepared pursuant to Section 9148.4 or 9148.6.  
25 The chairperson of a policy committee may alternatively require  
26 that the Joint Sunset Review Committee evaluate and provide  
27 recommendations on any plan prepared pursuant to Section 9148.4  
28 or 9148.6, or any other legislative issue or proposal to create a new  
29 state board.

30 (b) The Joint Sunset Review Committee shall provide to the  
31 respective policy and fiscal committees of the Legislature any  
32 evaluation and recommendations prepared pursuant to this section.

33 (c) If an appropriate policy committee does not evaluate a plan  
34 prepared pursuant to Section 9148.6, then the Joint Sunset Review  
35 Committee shall evaluate the plan and provide recommendations  
36 to the Legislature.

37 (d) *This section shall remain in effect only until January 1, 20\_\_,*  
38 *and as of that date is repealed, unless a later enacted statute, that*  
39 *is enacted before January 1, 20\_\_, deletes or extends that date.*

1 SEC. 4. Section 9148.8 is added to the Government Code, to  
2 read:

3 9148.8. (a) The appropriate policy committee of the Legislature  
4 may evaluate a plan prepared pursuant to Section 9148.4 or 9148.6.  
5 The chairperson of a policy committee may alternatively require  
6 that the California Sunset Review Commission evaluate and  
7 provide recommendations on any plan prepared pursuant to Section  
8 9148.4 or 9148.6, or any other legislative issue or proposal to  
9 create a new state board.

10 (b) The California Sunset Review Commission shall provide to  
11 the respective policy and fiscal committees of the Legislature any  
12 evaluation and recommendations prepared pursuant to this section.

13 (c) If an appropriate policy committee does not evaluate a plan  
14 prepared pursuant to Section 9148.6, then the California Sunset  
15 Review Commission shall evaluate the plan and provide  
16 recommendations to the Legislature.

17 This section shall become operative on January 1, 20\_\_.

18 SEC. 5. Section 9148.50 of the Government Code is amended  
19 to read:

20 9148.50. The Legislature finds and declares all of the following:

21 (a) California's multilevel, complex governmental structure  
22 today contains more than 400 categories of administrative or  
23 regulatory boards, commissions, committees, councils, associations,  
24 and authorities.

25 (b) These administrative or regulatory boards, commissions,  
26 committees, councils, associations, and authorities have been  
27 established without any method of periodically reviewing their  
28 necessity, effectiveness, or utility.

29 (c) As a result, the Legislature and residents of California cannot  
30 be assured that existing or proposed administrative or regulatory  
31 boards, commissions, committees, councils, associations, and  
32 authorities adequately protect the public health, safety, and welfare.

33 (d) *This section shall remain in effect only until January 1, 20\_\_,*  
34 *and as of that date is repealed, unless a later enacted statute, that*  
35 *is enacted before January 1, 20\_\_, deletes or extends that date.*

36 SEC. 6. Section 9148.51 of the Government Code is amended  
37 to read:

38 9148.51. (a) It is the intent of the Legislature that all existing  
39 and proposed eligible agencies, as defined in subdivision (a) of  
40 Section 9147.7, be subject to review to evaluate and determine

1 whether each has demonstrated a public need for its continued  
2 existence in accordance with enumerated factors and standards as  
3 set forth in Article 7.5 (commencing with Section 9147.7).

4 (b) If any state board becomes inoperative or is repealed in  
5 accordance with the act that added this section, any provision of  
6 existing law that provides for the appointment of board members  
7 and specifies the qualifications and tenure of board members shall  
8 not be implemented and shall have no force or effect while that  
9 state board is inoperative or repealed.

10 (c) Any provision of law authorizing the appointment of an  
11 executive officer by a state board subject to the review described  
12 in Article 7.5 (commencing with Section 9147.7), or prescribing  
13 his or her duties, shall not be implemented and shall have no force  
14 or effect while the applicable state board is inoperative or repealed.

15 (d) *This section shall remain in effect only until January 1, 20\_\_,*  
16 *and as of that date is repealed, unless a later enacted statute, that*  
17 *is enacted before January 1, 20\_\_, deletes or extends that date.*

18 SEC. 7. Section 9148.52 of the Government Code is amended  
19 to read:

20 9148.52. (a) The Joint Sunset Review Committee established  
21 pursuant to Section 9147.7 shall review all eligible agencies.

22 (b) The committee shall evaluate and make determinations  
23 pursuant to Article 7.5 (commencing with Section 9147.7).

24 (c) Pursuant to an evaluation made as specified in this section,  
25 the committee shall make a report which shall be available to the  
26 public and the Legislature on whether an agency should be  
27 terminated, or continued, or whether its functions should be revised  
28 or consolidated with those of another agency, and include any  
29 other recommendations as necessary to improve the effectiveness  
30 and efficiency of the agency. If the committee deems it advisable,  
31 the report may include proposed legislative proposals that would  
32 carry out its recommendations.

33 (d) *This section shall remain in effect only until January 1, 20\_\_,*  
34 *and as of that date is repealed, unless a later enacted statute, that*  
35 *is enacted before January 1, 20\_\_, deletes or extends that date.*



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**LC Item IV.**  
March 21, 2013

**CBA Item IX.C.4.**  
March 21-22, 2013

### **Report on 2013 Legislation Being Monitored by CBA**

**Presented by:** Andrew R. Breece, Legislative Coordinator

**Date:** March 1, 2012

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

The purpose of this agenda item is to provide the California Board of Accountancy (CBA) an update on 2013 legislation being monitored by the CBA.

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

No action is needed.

#### **Background**

None.

#### **Comments**

In addition to Assembly Bills (AB) 186 and 291 and the urgency omnibus bill, staff is monitoring other legislation as identified in the **Attachment**. Although many of the bill titles provided in the **Attachment** may appear to be relevant to the CBA, staff is not presently requesting CBA members to take a position because some of the bills do not contain substantive amendments in their present form or staff is presently working with the author's office and Department of Consumer Affairs (DCA) to determine any potential impact on the CBA and other DCA entities.

As CBA members may know, legislators often introduce a bill as a placeholder for another form of legislation, which is commonly known as a spot bill. The majority of the bills provided in **Attachment 1** are such. Spot bills make non-substantive and non-technical changes to a statute, and do not alter the legality of the law. Legislators often use a spot bill to provide additional time to develop an idea and craft legislation before the bill enters a committee.

Among the bills staff is tracking, AB 1114, titled California Board of Accountancy, does not contain significant amendments for the members to deliberate. Additionally, according to the author's office, the bill will likely be amended and become irrelevant to the CBA entirely.

In the event that the bills in the attachment or any other bills are amended and become relevant to the CBA, staff will present an analysis to the CBA at the May CBA meeting.

## **Report on 2013 Legislation Being Monitored by CBA**

Page 2 of 2

If a bill is amended in a way that has a direct impact on the CBA and in consultation with the CBA President it is determined that an emergency or interim meeting is needed before May, staff will work with members on any necessary arrangements, including the option of a Teleconference meeting.

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

None.

### **Recommendation**

None.

### **Attachment**

Legislative Tracking List



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**Attachment**

**Legislative Tracking List**

*High Priority*

<b><u>Bill #</u></b>	<b><u>Author</u></b>	<b><u>Topic</u></b>
<b>AB 186</b>	Maienschein	Temporary licenses
<b>AB 291</b>	Nestande	California Sunset Review

*Pending*

<b><u>Bill #</u></b>	<b><u>Author</u></b>	<b><u>Topic</u></b>
<b>AB 12</b>	Cooley	Standardized regulatory impact
<b>AB 258</b>	Chávez	State agencies: Veterans
<b>AB 292</b>	Nestande	California Code of Regulations
<b>AB 376</b>	Donnelly	Regulations: Notice
<b>AB 393</b>	Cooley	Office of Business and Economic Development: Internet Web site
<b>AB 555</b>	Salas	Professions and Vocations
<b>AB 653</b>	Pérez, M	State Government
<b>AB 771</b>	Jones	Department of Consumer Affairs
<b>AB 772</b>	Jones	Intervention in state agency or court proceedings
<b>AB 827</b>	Hagman	Department of Consumer Affairs
<b>AB 866</b>	Linder	Regulations
<b>AB 887</b>	Allen	Regulations: economic analysis
<b>AB 894</b>	Mansoor	Consumer Affairs
<b>AB 1013</b>	Gomez	Consumer Affairs
<b>AB 1017</b>	Gomez	Incoming telephone calls
<b>AB 1057</b>	Medina	Professions and vocations: licenses: military services
<b>AB 1114</b>	Achadjian	California Board of Accountancy
<b>AB 1219</b>	Morrell	Administrative Procedure Act: adverse economic impact

<b>SB 176</b>	Galgiani	Administrative procedures
<b>SB 207</b>	Cannella	Licensure information
<b>SB 417</b>	Berryhill	Unlicensed activity enforcement
<b>SB 532</b>	De Léon	Military spouses: temporary licenses
<b>SB 690</b>	Price	Licenses
<b>SB 742</b>	Nielsen	Office of Administrative Law



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**CBA Item IX.D.3.**  
March 21-22, 2013

## **2012 PROC Annual Report**

**Presented by:** Nancy J. Corrigan, Chair

**Date:** February 25, 2013

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### **Purpose of the Item**

The purpose of this agenda item is to present the California Board of Accountancy (CBA) with the Peer Review Oversight Committee's (PROC) 2012 Annual Report (Report) (**Attachment**).

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

No specific action is necessary.

### **Background**

Pursuant to CBA Regulation Section 47(c), the PROC is required to report to the CBA annually regarding the results of its oversight, including the scope of work, findings, and conclusions.

### **Comments**

CBA Regulation Section 47(c) requires that the PROC report annually regarding its oversight of the CBA's Peer Review Program. This Report also contains Peer Review Program information beyond the scope of those specific mandated requirements, in order to provide stakeholders with a summary of the historical genesis of the Peer Review Program as well as perspective regarding program implementation beyond just the PROC's activities. PROC activities and accomplishments, which represent the real focus of this Report, are iterated in Section X. "Activities and Accomplishments," beginning on page seven of the Report.

### **Fiscal/Economic Impact**

None.

### **Recommendation**

It is recommended that the CBA continue to provide guidance to the PROC concerning oversight activities.

### **Attachment**

California Board of Accountancy Peer Review Oversight Committee 2012 Annual Report



CALIFORNIA BOARD OF ACCOUNTANCY  
PEER REVIEW OVERSIGHT COMMITTEE  
2012 Annual Report



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## **I. Message from the Committee Chair**

It is with pleasure that I present the 2012 Annual Report of the Peer Review Oversight Committee (PROC) as our second report to the California Board of Accountancy (CBA). The PROC has continued to make significant progress in establishing a peer review oversight process, with the goal of making recommendations to the CBA to ensure the effectiveness of mandatory peer review.

During our second year as a committee, I reported our activities to you at each CBA meeting. During the past year, the PROC has further developed its knowledge with respect to the administration of the peer review process, the various bodies involved with the process, including the program provider and administering entities, and its roles and responsibilities related thereto as a committee.

In 2012, members provided oversight at fifteen peer review events, including peer review board and committee meetings, report acceptance body meetings, peer reviewer training courses sponsored by the program provider, and performed an administrative site visit of the program provider's administering entity. In performing these oversight activities, we used checklists and other materials developed during our first year, along with checklists more recently adopted, that document our oversight procedures. Our goal is to continue to improve upon these processes going forward. All oversight activities were performed under the revised roles and responsibilities for the PROC pursuant to Section 5076.1 of the Business and Professions Code.

During 2012, the PROC also arranged for presentations by the American Institute of Certified Public Accountants (AICPA) and the National Association of State Boards of Accountancy's (NASBA) Compliance Assurance Committee (CAC). These presentations assisted the PROC in understanding the extent of the AICPA and the CAC's processes for oversight of the NPRC. Once the PROC completes gathering information, it will make a determination on the best way to provide oversight of the California firms who peer review with the NPRC. We anticipate having an oversight process in place in 2013.

With the majority of our learning curve behind us, the PROC was able to concentrate on more oversight activities during 2012. Additionally, this enabled the PROC to reduce the number of committee meetings from six in 2012 to four in 2013.

To further strengthen the infrastructure of the PROC and allow for succession planning, the PROC appointed a Vice Chair position, rotated out two members as of December 31, 2012, and will be appointing two new members in early 2013. The staggered terms will enable the committee to maintain continuity of knowledge of peer review oversight activities into the future.

In closing, I want to thank the CBA members for their direction in supporting the PROC and its accomplishments in its second year. I also want to thank the PROC members for their continuing contributions to our Committee and our many accomplishments. I further appreciate the working relationship and continued support from the CBA staff in assisting the PROC with accomplishing its goals.

Nancy J. Corrigan, CPA  
*Committee Chair*

## II. Background

In 2009, the CBA sponsored Assembly Bill 138 (AB 138) implementing mandatory peer review. AB 138 was signed by Governor Arnold Schwarzenegger and became effective on January 1, 2010, requiring all California licensed firms providing accounting and auditing services, including sole proprietorships, to undergo a peer review once every three years as a condition of license renewal.

Peer review is defined as the study of a firm's accounting and auditing practice by an independent Certified Public Accountant (CPA) using professional standards, the purpose of which is to promote quality in the accounting and auditing services provided by CPAs.

## III. PROC Responsibilities

The PROC derives its authority from Section 5076.1 of the Business and Professions Code (B&P). The PROC is comprised of seven CPAs who maintain a California license in good standing and who are authorized to practice public accountancy. The purpose of the PROC is to provide recommendations to the CBA on any matter upon which it is authorized to act to ensure the effectiveness of mandatory peer review.

The CBA, at its July 26, 2012 meeting, adopted the following revised roles and responsibilities for the PROC:

- Hold meetings as necessary in order to conduct business and report to the CBA regarding the effectiveness of mandatory peer review.
- Ensure 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 (CCR) 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.
- Evaluate any *Application to Become A Board-recognized Peer Review Provider* and recommend approval or denial to the CBA.
- Refer to the CBA any Provider that fails to respond to any request.
- Collect and analyze statistical monitoring and reporting data from each Provider on an annual basis.
- Prepare an Annual Report to the CBA regarding the results of its oversight.

#### IV. Committee Members

The PROC is comprised of seven members, all of whom must possess and maintain a valid and active license to practice public accountancy issued by the CBA. Members are appointed to two-year terms and may serve a maximum of four consecutive terms.

<u>Current members:</u>	<u>Term Expiration Date:</u>
Nancy Corrigan, CPA, Chair	May 24, 2013
Robert Lee, CPA, Vice Chair	May 24, 2013
Katherine Allanson, CPA	May 24, 2013
Gary Bong, CPA	December 31, 2012
T. Ki Lam, CPA	December 31, 2012
Sherry McCoy, CPA	May 24, 2013
Seid Sadat, CPA	May 24, 2013

#### V. Regulations

On July 26, 2012, the CBA adopted regulations modifying Title 16, CCR, Sections 40 and 45. The proposed changes would replace the initial phase-in reporting dates with the requirement that licensees report specific peer review information on the Peer Review Reporting Form at the time of renewal. The proposed language also clarifies that any firm that performs specific services for the first time, whether it is newly licensed or simply new to performing those services, must complete a peer review within 18 months of the date it completes those services.

The rulemaking package is currently moving through the approval process. It is anticipated that the package will be provided to the Office of Administrative Law no later than July 2013 and once approved would become effective on January 1, 2014.

#### VI. Reporting Requirements

Pursuant to Business and Professions Code (B&P), Section 5076(n)(1), as amended on October 3, 2011 by Senate Bill 543, the CBA is required to provide the Legislature and Governor with a report regarding the peer review requirements that include, without limitation:

- The number of peer review reports completed to date and the number of substandard peer review reports which were submitted to the board.
- The number of enforcement actions that were initiated as a result of an investigation of a failed peer review report.
- The number of firms that were recommended to take corrective actions to improve their practice through the mandatory peer review process, and the number of firms that took corrective actions to improve their practice following recommendations resulting from the mandatory peer review process.
- The extent to which mandatory peer review of accounting firms enhances consumer protection.
- The cost impact on firms undergoing mandatory peer review and the cost impact of mandatory peer review on the firm's clients.
- A recommendation as to whether the mandatory peer review program should continue.

- The extent to which mandatory peer review of small firms or sole practitioners that prepare nondisclosure compiled financial statements on an other comprehensive basis of accounting enhances consumer protection.
- The impact of peer review required by this section on small firms and sole practitioners that prepare nondisclosure compiled financial statements on an other comprehensive basis of accounting.
- The impact of peer review required by this section on small businesses, nonprofit corporations, and other entities that utilize small firms or sole practitioners for the purposes of nondisclosure compiled financial statements prepared on an other comprehensive basis of accounting.
- A recommendation as to whether the preparation of nondisclosure compiled financial statements on an other comprehensive basis of accounting should continue to be a part of the mandatory peer review program.

In keeping with its purpose, the PROC is available to assist the CBA in any way necessary in preparing the report that is due to the Legislature and Governor on January 1, 2015.

## VII. Statistics

The following statistics provide perspective on the size of the peer review program in California.

With the implementation of mandatory peer review, all licensees are required to submit a Peer Review Reporting Form (Form PR-1(1/10)) to the CBA. Licensees with a license number ending in 01-33 had a reporting date of July 1, 2011, licensees with a license number ending in 34-66 had a reporting date of July 1, 2012, and licensees with a license number ending in 67-00 have a reporting date of July 1, 2013.

Using information collected on the Peer Review Reporting Form, the following table illustrates the number of firms required to undergo a peer review, firms not required to undergo peer review, and licensees that do not operate as firms.

Peer Review Reporting Forms Received by the CBA*						
License Ends In	Reporting Date	Firms Requiring Peer Review	Firms Not Requiring Peer Review	Licensees Not Operating as a Firm	Total	Licensees That Have Not Reported
01-33	July 1, 2011	2,454	4,254	15,628	22,336	717
34-66	July 1, 2012	1,801	3,837	12,577	18,215	1,953
67-00	July 1, 2013	704	2,076	7,779	10,559	10,395
<b>Total</b>		<b>4,959</b>	<b>10,167</b>	<b>35,984</b>	<b>51,110</b>	<b>13,065</b>

\* Data as of January 15, 2013.

The data in the following table reflects the number of peer review reports accepted by the California Society of Certified Public Accountants (CalCPA) in 2010, 2011, and 2012.

Peer Review Reports Accepted by the CalCPA*				
Type of Review	2010	2011	2012	Total
System	413	406	648	1,467
Engagement	535	870	1,253	2,658
<b>Total</b>	<b>948</b>	<b>1,276</b>	<b>1,901</b>	<b>4,125</b>

\*Data received from CalCPA as of December 31, 2012.

### VIII. Peer Review Voluntary Survey

In order to gather information on the impact of mandatory peer review, the CBA developed a voluntary survey for firms to complete as they submit their Online Peer Review Reporting Form. The survey went live on the CBA website on December 9, 2010. The PROC will continue to use the results of this ongoing survey to ensure the effectiveness of mandatory peer review.

For the purpose of analysis, preliminary survey results (**Appendix A**) were divided into two groups: (1) firms that have not undergone a peer review in the past, and (2) firms that have previously been peer reviewed. Although not all licensees answered all the survey questions, between 1,817 and 2,030 responses were received for each question. In general, the results revealed:

- **CORRECTIVE ACTION ORDERED**  
Less than 20 percent of the firms were required to take corrective action, with the most common action being continuing professional education.
- **VOLUNTARY ACTION TAKEN**  
Approximately half of the firms responding made voluntary changes to improve their processes.
- **FEES**  
Fewer than 10 percent of the firms increased fees to offset the cost of undergoing a peer review. The average increase for firms that raised fees was 12 percent.
- **OTHER COMPREHENSIVE BASIS OF ACCOUNTING (OCBOA)**  
A large majority of the firms have workload consisting of 25 percent or less OCBOA engagements.
- **IMPROVED SERVICES**  
Approximately 70 percent of the firms believe that undergoing a peer review has helped improve service to clients.
- **CLIENT NOTIFICATION**  
Fifty percent of the firms intend to notify clients that they have undergone a peer review.
- **MARKETING**  
Thirty percent of the firms will use peer review as a marketing tool.
- **CESSATION OF SERVICES**  
Nine percent of the firms will cease providing accounting and auditing services to eliminate the need for a future peer review.

Of the 342 general comments received as part of the survey, 103 were supportive of mandatory peer review whereas 199 were not supportive, and 40 were neutral.

## **IX. Board-recognized Peer Review Program Providers**

### **a. American Institute of CPAs (AICPA)**

The AICPA is currently the only Board-recognized Peer Review Program Provider. Through regulation, the CBA established that the AICPA Peer Review Program meets the standards outlined in CCR Section 48. Further, the CBA accepts all AICPA-approved organizations authorized to administer the AICPA Peer Review Program. At present, there are 42 administering entities. The PROC has the authority to request information and materials from all organizations.

The AICPA's Peer Review Board (PRB) is responsible for maintaining, furthering and governing the activities of the AICPA's Peer Review Program, including the issuance of peer review standards, and peer review guidance, while being mindful of the profession's covenant to serve the public interest with integrity and objectivity.

The Peer Review Program provides for a triennial review of a firm's accounting and auditing services performed by a peer reviewer who is unaffiliated with the firm being reviewed to ensure work performed conforms to professional standards. There are two types of peer reviews. System reviews are designed for firms that perform audits or other similar engagements. Engagement reviews are for firms that do not perform audits but perform other accounting work such as compilations and/or reviews. Firms can receive a rating of pass, pass with deficiency, or fail. Firms that receive ratings of pass with deficiency or fail must perform corrective actions.

#### **i. California Society of CPAs (CalCPA)**

CalCPA administers the AICPA Peer Review Program in California. As the administering entity, CalCPA is responsible for ensuring that peer reviews are performed in accordance with the AICPA's *Standards*. The CalCPA Peer Review Committee (PRC) monitors the administration, acceptance, and completion of peer reviews. The PRC delegates a portion of the report acceptance function to Report Acceptance Bodies (RABs).

#### **ii. National Peer Review Committee (NPRC)**

The AICPA also administers a peer review program through the National Peer Review Committee for firms required to be registered with and inspected by the Public Company Accounting Oversight Board (PCAOB) or perform audits of non-Securities and Exchange Commission (SEC) issuers pursuant to the standards of the PCAOB.

#### **iii. Other State Societies**

California-licensed accountancy firms with their main office located in another state are required to have their peer review administered by AICPA's administering entity for that state. In most cases, the administering entity is the state society in that state.

## **X. Activities and Accomplishments**

Following are the salient activities and accomplishments during the PROC's second year.

### **a. Administrative Functions**

#### **i. Committee Meetings**

The PROC holds meetings as necessary in order to conduct business and report to the CBA regarding the effectiveness of mandatory peer review.

The PROC held six meetings as follows:

- February 10, 2012 – Sacramento
- April 20, 2012 – Glendale
- June 15, 2012 – San Jose
- August 24, 2012 – Sacramento
- October 19, 2012 – Burbank
- December 4, 2012 – Sacramento

The PROC Chair summarized the PROC meetings in written reports that were presented at each CBA meeting.

#### **ii. PROC Procedures Manual**

The PROC updated its Procedures Manual which outlines specific procedures and processes to fulfill its duties. Updates include the PROC's revised roles and responsibilities, information regarding conflicts of interest, and newly created oversight checklists.

#### **iii. Oversight Checklists**

The PROC developed two additional oversight checklists which serve to document the members' findings and conclusions after specific oversight activity. Members submit the completed checklists to the CBA for future reference.

The following two checklists were created to track oversight activities:

- Summary of Peer Reviewer Training Course (**Appendix B**)
- Summary of Peer Review Board Meeting (**Appendix C**)

Checklists previously developed include:

- Summary of Peer Review Committee Meeting
- Summary of Peer Review Subcommittee Meeting
- Summary of Administrative Site Visit

The checklists are part of the PROC Procedures Manual. Additional checklists will be developed if deemed necessary.

#### **iv. Appointment of PROC Vice Chair**

At the request of the CBA, the PROC established a Vice Chair position to address concerns regarding succession planning. Robert Lee, CPA, was appointed Vice Chair by the CBA.

#### **v. Approval of Board-recognized Peer Review Program Providers**

At such time that the CBA receives an Application to Become a Board-recognized Peer Review Program Provider, the PROC will review the application and documentation and determine if the program meets the requirements outlined in Title 16, CCR Section 48. Based on the review, the PROC will provide a recommendation to the CBA that the application be approved or denied.

The PROC created a checklist to evaluate applications (**Appendix D**).

#### **vi. Withdrawal of Board Recognition of a Peer Review Program Provider**

The PROC has not made any recommendations to the CBA concerning the withdrawal of Board recognition of a peer review program provider.

### **b. Program Oversight**

The PROC is charged with providing oversight of all Board-recognized peer review program providers to ensure that peer reviews are being administered in accordance with the standards adopted by the CBA.

During 2012, the PROC performed several activities to assess the effectiveness of the AICPA's Peer Review Program and its administering entities, the CalCPA and the NPRC.

#### **i. AICPA**

##### **A. AICPA Peer Review Board**

The AICPA PRB is responsible for maintaining, furthering and governing the activities of the Program, including the issuance of peer review standards, and peer review guidance, while being mindful of the profession's covenant to serve the public interest with integrity and objectivity. The PRB holds four meetings per year. PROC members observed each of the following PRB meetings via teleconference:

- January 20, 2012
- May 8, 2012
- August 8, 2012
- October 9, 2012

## ii. CalCPA

### A. Peer Review Committee

The CalCPA Peer Review Committee is responsible for ensuring that the peer review program is performed in accordance with the standards and guidance issued by the AICPA's PRB. The PRC meets in person twice a year. PROC members observe how the PRC executes its duties in the meeting to determine whether or not this aspect of the peer review process is operating effectively in the State of California.

PROC members attended each of the following PRC meetings:

- April 26, 2012 – San Mateo
- November 15-16, 2012 – Yountville

### B. Report Acceptance Body

The CalCPA holds multiple RAB meetings per year. The RAB meetings generally occur via conference call. RAB members review and present the peer review reports subject to discussion on a general call. PROC members observe how the RAB executes its duties in the meeting to determine whether the peer review process is operating effectively in the state of California.

PROC members observed each of the following RAB meetings via teleconference or in person:

- January 5, 2012 – teleconference
- January 24, 2012 – in person
- March 6, 2012 – teleconference
- May 17, 2012 – teleconference
- July 24, 2012 – teleconference
- November 15, 2012 – in person

### C. Administrative Site Visit

The PROC is charged with conducting, at a minimum, an annual Administrative Site visit of all Providers. The visit will be to determine if the provider is administering peer reviews in accordance with the standards adopted by the CBA.

On February 16, 2012, the PROC reviewed the CalCPA's administration of the AICPA's Peer Review Program as part of the oversight program for the CBA. As an administering entity, CalCPA is responsible for administering the AICPA Peer Review Program in compliance with the AICPA *Standards for Performing and Reporting on Peer Reviews*, interpretations, and other guidance established by the board. The PROC's responsibility is to determine whether the peer review program complies with the Minimum Requirements for a Peer Review Program, pursuant to Title 16, CCR, Section 48.

The following procedures were performed as part of the PROC's responsibilities:

- Read correspondence and other available documentation from other oversight activities performed at CalCPA;
- Reviewed the Report Acceptance Body assignment binder;
- Used the PRISM system-generated reports provided by CalCPA to select a sample of peer review reports and associated files for review;
- Discussed peer reviewer qualifications process with CalCPA personnel and selected one peer reviewer for resume inspection;
- Obtained a listing of extensions to evaluate consistency of reasons for extension with policies of CalCPA.

Based on the results of the procedures performed, the PROC concluded that the CalCPA has complied with the Minimum Requirements for a Peer Review Program.

#### **D. Sample Reviews**

The PROC developed a system for sampling peer review reports. The first review was completed on February 16, 2012, in conjunction with the administrative site visit.

#### **E. Peer Reviewer Training**

The PROC is responsible for ensuring that peer review providers develop a training program designed to maintain or increase a peer reviewer's currency of knowledge related to performing and reporting on peer reviews.

The CalCPA Education Foundation offers two peer reviewer trainings per year. A two-day course for new peer reviewers and a one-day refresher course are each offered once a year. PROC members attended the one-day training course *AICPA's Advanced Workshop: Practical Guidance for Peer Reviewers* on May 23, 2012, and the two-day training course *How to Conduct a Review Under the AICPA Practice-Monitoring Program* on June 27-28, 2012.

### **iii. NPRC**

#### **A. Annual Monitoring Report**

The PROC reviewed the NASBA CAC first annual monitoring report of the NPRC. This report is the product of an agreement between NASBA and the AICPA to provide a mechanism by which the operations of the NPRC could be monitored and reported on by the CAC.

#### **B. AICPA Presentation**

The PROC arranged a presentation by Jim Brackens, Vice President, Ethics & Practice Quality, AICPA, which included the various aspects of the AICPA's oversight of the NPRC.

### **C. CAC Presentation**

The PROC arranged a presentation by Janice Gray, Chair of NASBA's CAC, which included information on the CAC's oversight of the NPRC.

The PROC sent a letter to the CAC requesting information necessary for the PROC to better understand the CAC's oversight process of the NPRC. The PROC requested the following information:

- Copies of CAC oversight reports;
- Copies of third-party reviewer reports;
- Oversight statistics annually;
- A calendar of events to include CAC oversight activities, scheduling of third-party reviews and administrative site visits, report development activities, etc.

The PROC continues to work with the CAC to develop a process to provide adequate oversight to the NPRC.

### **IV. Other State Societies**

The PROC is aware that California-licensed firms are having their peer reviews performed by AICPA administering entities other than CalCPA and NPRC, and will be exploring options for monitoring and ensuring these administering entities are given sufficient oversight.

## **XI. Findings**

Based on PROC members' attendance at the various peer review bodies' meetings cited in this report, the PROC offers the following findings to the CBA.

### **AICPA**

The PROC found the AICPA PRB meetings to be informative, efficient and structured. PROC members were invited to ask questions at regular intervals throughout the meetings. The PRB was diligent with regard to their responsibility for the peer review process and ensuring that the process is integrated with changes to professional standards. The PRB appears devoted to the quality of peer reviewers and how the AICPA could enhance this quality for the overall good of CPA firms.

### **CalCPA**

PROC members were impressed with the CalCPA PRC members' technical expertise. The PRC deals with issues such as interpreting standards and applying consistency as the standards change and evolve. The PRC maintains a running list of recurring peer review deficiencies that they monitor and gauge, as well as monitoring the performance of peer reviewers.

Through participation in six RAB meetings, PROC members found RAB members professional and able to effectively discuss issues and arrive at well thought out conclusions.

PROC members found the peer reviewers courses to be informative and effective. The presenter had a practical approach and spent an ample amount of time going through specific cases and explaining why certain decisions were made. It was noted that, although the course is marketed to new peer reviewers, the course seemed to be designed for more experienced peer reviewers. Although the presenter used advanced terminology, she was always willing to answer questions and provide further explanation.

### **NPRC**

In 2012, PROC members began researching and developing an understanding of the NPRC, including the oversight provided by AICPA and NASBA's CAC. The PROC will continue to research oversight of the NPRC and development of an oversight plan in 2013.

## **XII. Conclusions**

Based on its oversight activities, the PROC concluded that the AICPA and its administering entities, CalCPA and NPRC, function effectively as a peer review program provider. The PROC recommends that the CBA continue to recognize the American Institute of Certified Public Accountants as a peer review program provider.

**California Board of Accountancy**  
**Peer Review**  
**Preliminary Voluntary Survey Results**  
December 9, 2010 - September 18, 2012

**Appendix A**

<b>Was your recent peer review the first time you have undergone a peer review?</b>			
	ENG	SYS	Total
Yes (1st Time Peer Reviewed)	423	133	556
No (Previously Peer Reviewed)	909	565	1474
<b>Total</b>	<b>1332</b>	<b>698</b>	<b>2030</b>

<b>Was your firm required to take any corrective action as a result of undergoing peer review?</b>			
	Yes	No	Total
1st Time Peer Reviewed	148	401	549
Previously Peer Reviewed	178	1259	1437
<b>Total</b>	<b>326</b>	<b>1660</b>	<b>1986</b>

<b>Type of Correction Ordered</b>	<b>1st Time Peer Reviewed</b>		<b>Previously Peer Reviewed</b>	
CPE	90		87	
Accelerated Review	2		2	
Additional Inspections/Reviews	25		31	
Update Library	30		27	
Strengthen Staff	8		21	
Submission of Additional Materials	12		27	
Other	27		39	

<b>Has your firm voluntarily made any changes that improved its processes as a result of undergoing a peer review?</b>			
	Yes	No	Total
1st Time Peer Reviewed	295	226	521
Previously Peer Reviewed	703	683	1386
<b>Total</b>	<b>998</b>	<b>909</b>	<b>1907</b>

<b>Voluntary Changes Made</b>	<b>1st Time Peer Reviewed</b>		<b>Previously Peer Reviewed</b>	
CPE	130		276	
Update Library	136		226	
Strengthen Staff	51		249	
Other	84		197	

<b>Did you raise your fees to offset the cost of your peer review?</b>				
	Yes	No	Total	Average Increase
1st Time Peer Reviewed	85	431	516	16.5%
Previously Peer Reviewed	76	1261	1337	9%
Total	161	1692	1853	

<b>Do you believe that undergoing peer review has helped to improve your overall service to your clients?</b>			
	Yes	No	Total
1st Time Peer Reviewed	280	218	498
Previously Peer Reviewed	931	388	1319
Total	1211	606	1817

<b>Do you, or will you, voluntarily notify clients that you have undergone peer review?</b>			
	Yes	No	Total
1st Time Peer Reviewed	238	260	498
Previously Peer Reviewed	657	667	1324
Total	895	927	1822

<b>Do you, or will you, use peer review as a marketing tool to potential clients?</b>			
	Yes	No	Total
1st Time Peer Reviewed	111	395	506
Previously Peer Reviewed	439	894	1333
Total	550	1289	1839

<b>To eliminate the need for a future peer review, will you cease providing the services which trigger a mandatory peer review under the law?</b>			
	Yes	No	Total
1st Time Peer Reviewed	84	419	503
Previously Peer Reviewed	83	1237	1320
Total	167	1656	1823

<b>What percentage of your workload during the three years encompassing your recent peer review was spent on compilations without disclosure using other comprehensive basis of accounting (OCBOA)?</b>						
	0%	1-25%	26-50%	51-75%	76-99%	100%
1st Time Peer Reviewed	152	242	22	14	16	22
Percentage	32%	52%	5%	3%	3%	5%
Previously Peer Reviewed	288	792	80	36	38	11
Percentage	23%	63.5%	6.5%	3%	3%	1%



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Peer Review Oversight Committee

Appendix B

**Summary of Peer Reviewer Training Course**

**Purpose:** As part of its oversight activities, the Peer Review Oversight Committee (PROC) observes training provided to new and experienced peer reviewers as further described in the PROC's Procedure Manual. Peer reviewer training is provided throughout the United States; however, in California, training is generally provided twice each year, one class for new peer reviewers currently 16 hours over 2 days, and one class for experienced peer reviewers currently 8 hours on one day. Both classes are conducted with live instruction. Participants are provided with the materials upon arrival at the training location. The objective of this aspect of PROC oversight is to observe how the peer reviewers are trained and determine whether or not this aspect of the peer review process is operating effectively in the state of California.

Course Date: \_\_\_\_\_

Name of Peer Reviewer Training: \_\_\_\_\_

Name of Instructor: \_\_\_\_\_

EVALUATION OF THE TECHNICAL ASPECTS OF THE TRAINING CONTENT	YES	NO	N/A
1. Does the instructor appear knowledgeable about:			
The technical aspects of their reviews, both peer review standards as well as general audit and accounting standards.			
Critical peer review issues and risk considerations (focus matters).			
Industry specific issues (i.e. requirements of ERISA, Governmental Standards/Regulations, etc.).			
The differences in matters, findings, deficiencies and significant deficiencies.			
Appropriate types of reports.			
Circumstances for requiring revisions to review documents.			
2. Is the subject matter covered relevant to conducting peer reviews?			
3. Did the course achieve the training objectives?			
4. Comments regarding the overall evaluation of the technical aspects of the peer reviewer training:			





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Peer Review Oversight Committee

Appendix C

**Peer Review Board Meeting Checklist**

**Purpose:** As part of its oversight activities, the Peer Review Oversight Committee (PROC) observes selected Peer Review Board (PRB) meetings as further described in the PROC's Procedures Manual. The PRB meetings generally occur via conference call. PRB members are provided with the materials needed to review and prepare for discussions on a general call; however, given the oversight nature of the PROC, such materials are not distributed to PROC members. Rather, the objective of this aspect of PROC oversight is to observe how the PRB executes its duties in the meeting and determine whether or not this aspect of the peer review process is operating effectively in the state of California. These matters are then summarized and reported to the California Board of Accountancy as part of the PROC reporting.

Date of Meeting: \_\_\_\_\_

Name of Peer Review Program Provider: \_\_\_\_\_

EVALUATION OF THE TECHNICAL ASPECTS OF THE MEETING CONTENT AND DISCUSSION	YES	NO	N/A
1. Do the PRB members appear knowledgeable about their responsibilities?			
2. Are PRB members knowledgeable about:			
The technical aspects of both peer review standards as well as general audit and accounting standards.			
Critical peer review issues and risk considerations (focus matters).			
Challenges facing peer reviewers.			
Challenges facing CPA firms being peer reviewed.			
Appropriateness of recommended corrective or monitoring actions.			
The need to providing CPAs an appropriate balance of education and discipline.			
3. Based upon your observations, were the PRB's discussions and actions taken reasonable in the circumstances?			
4. Comments regarding the overall evaluation of the technical aspects of the meeting content and discussion:			

EVALUATION OF THE GENERAL MEETING PROCESS	YES	NO	N/A
5. Was sufficient time allowed for discussion of each matter?			
6. Were there a required minimum number of PRB members present to take action?			
7. Was the nature of the discussion appropriate?			
8. Do members appear to have a good rapport with one another? Are members respectful of each other, i.e., are members' ideas given appropriate consideration?			
9. Comments regarding the overall evaluation of general meeting process:			
<b>CONCLUSION</b>			
10. Rate the meeting as to its effectiveness for its role in the peer review process: <input type="checkbox"/> Meets Expectations <input type="checkbox"/> Does Not Meet Expectations*			
11. Other comments, if any:			

The above checklist was prepared by:

\_\_\_\_\_

Print Name

\_\_\_\_\_

Signature

\* A rating of "No" or "Does Not Meet Expectations" requires a comment.



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Peer Review Oversight Committee

Appendix D

**Peer Review Program Provider Checklist**

**Purpose:** Pursuant to Title 16, California Code of Regulations (CCR), Section 48.2, prior to receiving California Board of Accountancy (CBA) recognition to perform peer reviews in California, a peer review program provider shall submit an *Application to Become a Board-Recognized Peer Review Program (1/10)*. With the application, the firm shall submit materials evidencing the program meets the requirements outlined in Section 48. Pursuant to CCR Section 47(f), the Peer Review Oversight Committee (PROC) shall review and recommend to the CBA for approval of peer review program provider applications for recognition by the CBA.

Name of Organization \_\_\_\_\_

Address \_\_\_\_\_

City \_\_\_\_\_ State \_\_\_\_\_ Zip Code \_\_\_\_\_

Telephone Number \_\_\_\_\_ Fax Number \_\_\_\_\_

Contact Person: \_\_\_\_\_

<b>Title 16, California Code of Regulations, Section 48</b>		
For a peer review program provider to receive Board recognition and be authorized to administer peer reviews in California, the peer review program provider must submit evidence to the satisfaction of the Board that the peer review program is comprised of a set of standards for performing, reporting on, and administering peer reviews. A peer review program shall include the following components:		
<b>(a) Peer Review Types</b>	<b>Y</b>	<b>N</b>
A peer review program shall have a minimum of two types of peer reviews that include the following:		
(1) For firms performing engagements under the Statements on Auditing Standards (SASs), Government Auditing Standards, examinations of prospective financial statements under the Statements on Standards on Attestation Engagements (SSAEs), or audits of non-Security Exchange Commission (SEC) issuers performed pursuant to the standards of the Public Company Accounting Oversight Board (PCAOB), the firm shall undergo a peer review designed to test the firm's system of quality control. The scope of the peer review shall be such that it provides a peer reviewer with a reasonable assurance that a firm's system of quality control was designed in accordance with professional standards and was complied with by the firm's personnel.		
(2) For firms only performing engagements under the Statements on Standards for Accounting and Review Services (SSARS) or under Statements on Standards on Attestation Engagements (SSAEs) not encompassed in review performed under subsection (a)(1), the firm shall undergo a peer review designed to test a cross-section of a firm's engagements to assess whether the engagements were performed in conformity with the applicable professional standards.		

<b>(b) Peer Review Report Issuance</b>	<b>Y</b>	<b>N</b>
(1) For firms undergoing peer reviews pursuant to subsection (a)(1), one of the following three types of peer review reports shall be issued:	/	/
(A) A peer review report indicating that a peer reviewer or peer review team concluded that a firm's system of quality control was suitably designed and complied with by the firm's personnel, which provides the firm with reasonable assurance of performing and reporting on engagements in conformity with applicable professional standards.		
(B) A peer review report indicating that a peer reviewer or peer review team concluded that a firm's system of quality control was suitably designed and complied with by the firm's personnel with the exception of a certain deficiency or deficiencies that are described in the report. The deficiencies are such that the firm's design of or compliance with its system could create a situation in which the firm would have less than reasonable assurance of performing and/or reporting on engagements in conformity with applicable professional standards.		
(C) A peer review report indicating that a peer reviewer or peer review team concluded that a firm's system of quality control is not suitably designed or complied with by the firm's personnel, and thus, does not provide the firm with reasonable assurance of performing and reporting on engagements in conformity with applicable professional standards.		
(2) For firms undergoing peer reviews pursuant to subsection (a)(2), one of the following three types of peer review reports shall be issued:	/	/
(A) A peer review report indicating that a peer reviewer or peer review team concluded that there was no evidence which would cause the peer reviewer to believe that the engagements performed by the firm were not performed in conformity with applicable professional standards.		
(B) A peer review report indicating that a peer reviewer or peer review team concluded that, with the exception of a certain deficiency or deficiencies, nothing would cause the peer reviewer to believe that the engagements performed by the firm and submitted for review were not performed in conformity with applicable professional standards. The deficiencies identified were such that the peer reviewer concluded they were material to the understanding of the report or financial statements or represented omission of critical procedures required by applicable professional standards.		
(C) A peer review report indicating that a peer reviewer or peer review team concluded that the engagements reviewed were not performed and/or reported on in conformity with applicable professional standards. In issuing such report, the peer reviewer shall assess both the significance of the deficiencies identified and the pervasiveness of the deficiencies.		
<b>(c) Peer Reviewer Qualifications</b>	<b>Y</b>	<b>N</b>
Has the Provider established minimum qualifications for an individual to qualify as a peer reviewer, to include:	/	/
(1) Have a valid and active license in good standing to practice public accounting issued by this state or other state.		
(2) Be actively involved and practicing at a supervisory level in a firm's accounting and auditing practice.		
(3) Maintain a currency of knowledge of the professional standards related to accounting and auditing, including those expressly related to the type or kind of practice to be reviewed.		
(4) Provide the Board-recognized peer review program provider with his/her qualifications to be a reviewer, including recent industry experience.		

(5) Be associated with a firm that has received a peer review report issued in accordance with subsection (b)(1)(A) or (b)(2)(A) of this section or has received a peer review rating of pass or unmodified as part of the American Institute of Certified Public Accountants Peer Review Program as part of the firm's last peer review.		
<b>(d) Planning and Performing Peer Reviews</b>	<b>Y</b>	<b>N</b>
A peer review program shall include minimum qualifications for an individual to qualify as a peer reviewer. The qualifications shall, at a minimum, include the following:		
(1) For peer reviews performed in accordance with subsection (a)(1) of this section, a peer review program's guidelines and/or standards shall include the following:		
(A) Ensuring that prior to performing a peer review, a peer reviewer or a peer review team takes adequate steps in planning a peer review to include the following: (i) obtain the results of a firm's prior peer review (if applicable), (ii) obtain sufficient understanding of the nature and extent of a firm's accounting and auditing practice, (iii) obtain a sufficient understanding of a firm's system of quality control and the manner in which the system is monitored by a firm, and (iv) select a representative cross-section of a firm's engagements.		
(B) In performing a peer review, the peer reviewer or peer review team shall test the reviewed engagements while assessing the adequacy of and compliance with a firm's system of quality control. The peer review is intended to provide the peer reviewer or peer review team with reasonable basis for expressing an opinion as to whether a firm's system of quality control is suitably designed and complied with by a firm's personnel such that the firm has reasonable assurance of performing and reporting on engagements in conformity with applicable professional standards.		
(2) For peer reviews performed in accordance with subsection (a)(2) of this section, a peer review program's guidelines and/or standards shall include the following:		
(A) Ensuring that prior to performing a peer review, a peer reviewer or peer review team select a representative cross-section of a firm's accounting and auditing engagements to include at a minimum one engagement for each partner, shareholder, owner, principal, or licensee authorized to issue reports.		
(B) In performing a peer review, the peer reviewer or peer review team shall review the selected engagements to determine if the engagements were performed in conformity with the applicable professional standards.		
(3) Nothing in a peer review program provider's guidelines and/or standards shall prohibit a peer reviewer or peer review team from disclosing pertinent peer review-related information regarding a firm to a subsequent peer reviewer.		
<b>(e) Plan of Administration and Accepting Peer Review Reports</b>	<b>Y</b>	<b>N</b>
(1) The administration plan shall clearly outline the manner in which the peer review program provider intends on administering peer reviews and shall, at a minimum, include the following:		
(A) Identify a peer review committee, and if necessary subcommittees, and employ knowledgeable staff for the operation of the review program as needed.		
(B) Establish and perform procedures for ensuring that reviews are performed and reported on in accordance with the program's established standards for performing and reporting on peer reviews.		

(C) Establish a program to communicate to firms participating in the peer review program the latest developments in peer review standards and the most common findings in peer reviews conducted by the Board-recognized peer review program provider.		
(D) Establish and document procedures for an adjudication process designed to resolve any disagreement(s) which may arise out of the performance of a peer review, and resolve matters which may lead to the dismissal of a firm from the provider's peer review program.		
(E) Establish guidelines for prescribing remedial or corrective actions designed to assure correction of the deficiencies identified in a firm's peer review report.		
(F) Establish guidelines for monitoring the prescribed remedial and corrective actions to determine compliance by the reviewed firm.		
(G) Establish and document procedures for ensuring adequate peer reviewers to perform peer reviews. This shall include ensuring a breadth of knowledge related to industry experience.		
(H) Establish and document procedures to ensure the qualifications of peer reviewers and to evaluate a peer reviewer's performance on peer reviews.		
(I) Establish a training program or training programs designed to maintain or increase a peer reviewer's currency of knowledge related to performing and reporting on peer reviews.		
(J) Establish and document procedures to ensure that a firm requiring a peer review selects a peer reviewer with similar practice experience and industry knowledge, and peer reviewer is performing a peer review for a firm with which the reviewer has similar practice experience and industry knowledge.		
(K) Require the maintenance of records of peer reviews conducted under the program. Such records shall include, at a minimum, written records of all firms enrolled in the peer review program and documents required for submission under Section 46, with these documents to be retained until the completion of a firm's subsequent peer review.		
(L) Provide to the Board's Peer Review Oversight Committee access to all materials and documents required for the administration of peer reviews.		
(2) As required by subsection (e)(1)(A) of this section, the peer review program provider shall establish a peer review committee to assist in the review and acceptance of peer review reports. The peer review program provider's committee shall:		
(A) Meet regularly to consider and accept peer review reports.		
(B) Assist the peer review program provider in resolving instances in which there is a lack of cooperation and agreement between a peer reviewer and/or reviewed firm in accordance with the peer review program's adjudication process.		
(C) Make a final determination on a peer review report pursuant to subdivision (b).		
<b>(f) Composition of the Peer Review Committee (PRC)</b>	<b>Y</b>	<b>N</b>
(1) All committee members shall meet the peer reviewer qualification requirements established in Section 48(c).		
(2) In determining the size of the committee, consideration shall be given to the requirement for broad industry experience, and the likelihood that some members will need to recuse themselves from some reviews as a result of the member's close association to the firm or having performed the review.		
(3) No committee member may concurrently serve as a member of the Board.		

(4) A committee member may not participate in any discussion or have any vote with respect to a reviewed firm when the member lacks independence as defined by California Code of Regulations Section 65 or has a conflict of interest. Examples of conflicts of interest include, but are not limited to:		
(A) The member's firm has performed the most recent peer review of the reviewed firm's accounting and auditing practice.		
(B) The member served on the review team which performed the current or the immediately preceding review of the firm.		
(C) The member believes he/she cannot be impartial or objective.		
(5) Each member of the committee shall comply with all confidentiality requirements. The peer review program provider shall annually require its committee members to sign a statement acknowledging their appointments and the responsibilities and obligations of their appointments.		

The following recommendation was adopted by the PROC on \_\_\_\_\_:

Approval       Denial

\_\_\_\_\_  
PROC Chair

\_\_\_\_\_  
Date

\_\_\_\_\_  
PROC Vice Chair

\_\_\_\_\_  
Date

Comments:

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CBA Item X.A.  
 March 21-22, 2013

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

**MINUTES OF THE**  
**JANUARY 24-25, 2013**  
**CBA MEETING**

**DRAFT**

Sheraton Suites San Diego  
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Roll Call and Call to Order.

CBA President Leslie LaManna called the meeting to order at 1:02 p.m. on Thursday, January 24, 2013 at the Sheraton Suites at Symphony Hall in San Diego. The meeting recessed at 3:59 p.m. President LaManna reconvened the meeting at 9:00 a.m. on Friday, January 25, 2013 and the meeting adjourned at 9:55 a.m.

CBA Members

January 24, 2013

Leslie LaManna, President	1:02 p.m. to 3:59 p.m.
Michael Savoy, Vice President	1:02 p.m. to 3:59 p.m.
K.T. Leung, Secretary-Treasurer	Absent
Sarah (Sally) Anderson	1:02 p.m. to 3:59 p.m.
Diana Bell	1:02 p.m. to 3:59 p.m.
Alicia Berhow	1:02 p.m. to 3:59 p.m.
Michelle Brough	Absent
Jose Campos	1:02 p.m. to 3:59 p.m.
Herschel Elkins	1:02 p.m. to 3:59 p.m.
Laurence (Larry) Kaplan	1:02 p.m. to 3:59 p.m.
Louise Kirkbride	Absent
Marshal Oldman	1:02 p.m. to 3:59 p.m.
Manuel Ramirez	1:02 p.m. to 3:59 p.m.
Katrina Salazar	1:02 p.m. to 3:59 p.m.

CBA Members

January 25, 2013

Leslie LaManna, President	9:00 a.m. to 9:55 a.m.
Michael Savoy, Vice President	9:00 a.m. to 9:55 a.m.
K.T. Leung, Secretary-Treasurer	Absent
Sarah (Sally) Anderson	9:00 a.m. to 9:55 a.m.
Diana Bell	9:00 a.m. to 9:55 a.m.
Alicia Berhow	9:00 a.m. to 9:55 a.m.
Michelle Brough	Absent
Jose Campos	9:00 a.m. to 9:55 a.m.
Herschel Elkins	9:00 a.m. to 9:55 a.m.
Laurence (Larry) Kaplan	9:00 a.m. to 9:55 a.m.
Louise Kirkbride	9:00 a.m. to 9:55 a.m.
Marshal Oldman	9:00 a.m. to 9:55 a.m.
Manuel Ramirez	9:00 a.m. to 9:55 a.m.
Katrina Salazar	9:00 a.m. to 9:55 a.m.

Staff and Legal Counsel

Patti Bowers, Executive Officer  
Andrew Breece, Legislative Analyst  
Rich Andres, Information Technology Staff  
Paul Fisher, Supervising Investigative CPA  
Dominic Franzella, Chief, Licensing Division  
Rafael Ixta, Chief, Enforcement Division  
Kari O'Connor, Board Relations Analyst  
Deanne Pearce, Assistant Executive Officer  
Kristy Shellans, Legal Counsel, Department of Consumer Affairs (DCA)  
Carl Sonne, Deputy Attorney General, Department of Justice (DOJ)  
Matthew Stanley, Regulation Analyst

Committee Chairs and Members

Cheryl Gerhardt, Chair, Enforcement Advisory Committee (EAC)

Other Participants

Kevin Berggren, Center for Public Interest Law (CPIL)  
Don Driftmier, CPA  
Reichel Everhart, Deputy Director of Board Relations, DCA  
Hal Schultz, California Society of CPAs (CalCPA)  
Jeannie Tindel, CalCPA

I. Report of the President

Ms. LaManna introduced recently-appointed CBA members Jose Campos

and Katrina Salazar.

A. DCA Director's Report.

Ms. LaManna introduced DCA Deputy Director of Board Relations, Reichel Everhart.

Ms. Everhart provided an update from the DCA Director's Office. Ms. Everhart stated the DCA Director's Office is making efforts to open lines of communication with DCA boards and bureaus. Ms. Everhart stated that quarterly meetings are being held with DCA Executive Officers and the Director's Office and a bi-monthly newsletter is being created to ensure that important news and information is getting distributed to boards in a timely manner.

Ms. Everhart further stated that her role as Chief Deputy Director of Board Relations includes providing information and support to the Governor's Appointments Office.

Mr. Ramirez inquired about the status of BreEZe.

Ms. Everhart stated that the first phase of BreEze is scheduled for release in February 2013 and that more updates on the BreEZe project will be provided as the first implementation phase begins.

B. Resolutions for Retiring Ethics Curriculum Committee (ECC) Members.

**It was moved by Mr. Ramirez, seconded by Mr. Savoy and unanimously carried by those present to approve the resolutions for retiring ECC members.**

C. Educational Presentation – Overview of the Legislative and Regulatory Processes.

Mr. Breece and Mr. Stanley provided an overview of the legislative and regulatory processes employed at the CBA (see Attachment 1).

D. Announcement of New CBA Committee and Liaison Appointments.

Ms. LaManna stated that appointments to CBA committees have been made and the updated CBA and Committee Member Roster is available on the CBA website. Ms. LaManna thanked Mr. Savoy, Ms. Berhow, and Mr. Kaplan for agreeing to chair the CBA committees.

II. Report of the Vice President.

- A. Recommendations for Appointment(s) to the Enforcement Advisory Committee (EAC).

**It was moved by Mr. Oldman, seconded by Ms. Anderson and unanimously carried by those present to reappoint James Rider to the EAC.**

- B. Recommendations for Appointment(s) to the Qualifications Committee (QC).

**It was moved by Ms. Bell, seconded by Mr. Ramirez and unanimously carried by those present to reappoint Fausto Hinojosa to the QC.**

**It was moved by Mr. Ramirez, seconded by Ms. Bell and unanimously carried by those present to appoint Kris Mapes to serve as Vice Chair of the QC.**

- C. Recommendations for Appointments/Reappointments to the Peer Review Oversight Committee

There was no report on this item.

### III. Report of the Secretary/Treasurer

- A. Discussion of Governor's Budget.

There was no report on this item.

### IV. Report of the Executive Officer (EO)

- A. Update on Staffing.

Ms. Bowers reported that the CBA Enforcement Division is fully staffed and there are presently three vacancies within the Licensing Division.

- B. Update on Location for March 21-22, 2013 CBA Meeting.

Ms. Bowers informed CBA members that staff have experienced difficulties in securing a Northern California meeting location for the March CBA meeting. As such, Ms. Bowers stated that the March CBA meeting will be held in Southern California. Ms. Bowers further stated that staff is exploring securing a Northern California for a future CBA meeting.

- C. Update on 2013-2015 CBA Communications and Outreach Plan (Written Report Only).

There were no comments on this item.

D. Review and Approval of Proposed Changes to the CBA Member Guidelines and Procedures (G&P) Manual.

Ms. Pearce provided an overview of this item.

Ms. Pearce stated that the proposed changes to CBA Member G&P Manual include updates to the duties of the EAC and Enforcement Program Oversight Committee (EPOC) approved by the CBA in 2012. Ms. Pearce stated that this included members' requested change that the purpose of statutory committees be clarified to ensure that policy-related issues identified at the committee level are brought to the CBA to be discussed for CBA member input and approval prior to being discussed at the committee level.

**It was moved by Mr. Ramirez, seconded by Ms. Bell and unanimously carried by those present to approve the proposed changes to the CBA Member G&P Manual.**

V. Report of the Licensing Chief.

A. Report on Licensing Division.

Mr. Franzella provided an overview of this item (Attachment \_\_\_).

Mr. Franzella stated that the division continues to maintain processing timeframes under 30 days.

Mr. Franzella informed CBA members that the National Association of State Boards of Accountancy (NASBA) informed CBA staff of 11 California candidates affected by a rescore of some sections of the CPA Exam. He noted that staff contacted these individuals.

Mr. Franzella stated that a Facebook event was recently held to answer questions regarding the new educational requirements for CPA licensure. He further stated that an interactive self-assessment worksheet was posted to the website to assist individuals with determining how their education aligns to the new requirements.

VI. Report of the Enforcement Chief.

A. Enforcement Activity Report.

Mr. Ixta presented an overview of this item (see Attachment \_\_\_).

Mr. Ixta reported that the CBA received 2,474 complaints for the current fiscal year, with 1,800 citations issued regarding peer review, and for failure to respond to a board inquiry.

Mr. Ramirez requested that the Enforcement Division report be revised to differentiate consumer complaints from internal citations or complaints.

Mr. Ixta reported that the Enforcement Division has 2,121 investigations pending – 1,800 of which are related to peer review. Mr. Ixta stated that the number of investigation cases pending over 24 months has been reduced to six cases. Mr. Ixta further stated that the average length of an open investigation and the median age of an investigation have reduced since the beginning of the current Fiscal Year.

**At this time, CBA Item IX.D., Peer Review Oversight Committee (PROC) (Nancy Corrigan, Chair).**

VII. Closed Session. Pursuant to Government Code Section 11126(c)(3), the CBA Convened into Closed Session to Deliberate on Disciplinary Matters (Stipulations, Default Decisions, Proposed Decisions, and Petitions for Reinstatement).

VIII. Regulations.

A. Regulation Hearing Regarding Title 16, California Code of Regulations (CCR) Section 70 – Fees.

Mr. Stanley read the following statement regarding the regulation hearing into the record:

“This is a public hearing on proposed regulations of the California Board of Accountancy, Department of Consumer Affairs, to consider adopting regulations for Fees. On behalf of the Board and its staff, I'd like to welcome you. My name is Matthew Stanley and I serve as the Board's Regulation Analyst. I will preside over this hearing on behalf of the Board and the Department.

The California Board of Accountancy is contemplating this action pursuant to the authority vested by Sections 5010 and 5134 of the Business and Professions Code, authorizing the Board to amend, adopt, or repeal regulations for the administration and enforcement of the Chapter 1 of Division 3 of the Business and Professions Code.

For the record, the date today is January 25, 2013 and the time is approximately 9:01 a.m. Our hearing is being held at the Sheraton Suites at Symphony Hall located at 701 A. Street in San Diego, CA.

The notice for the hearing on these proposed regulations was published by the Office of Administrative Law. Interested parties on our mailing list have been notified of today's hearing. The language of the proposed regulations has been mailed to those who requested it and has been available on the board's Web site and upon request by other members of the public. Copies of the proposed regulations are available at the back of the room.

If the Board has received written comments on the proposal, those comments will be entered into the official record of the proceedings. The Board shall be provided and shall consider all written comments received up until 5:00 p.m., January 14, 2013. Anyone who wishes to comment in writing but does not want to speak today is welcome to do so. If we receive written comments on the proposed regulations, they will be acknowledged and entered into the official record of the rulemaking proceedings.

Those persons interested in testifying today should identify themselves and the section or subsection of the proposed regulations that they wish to address. Individuals will be called to testify in the order determined by recognition from the hearing officer. If you have a comment about the proposed regulation or any part or specific subsection of the proposal, please step up to the microphone and give your name, spelling your last name and tell us what organization you represent, if any. Speak loudly enough for your comments to be heard and recorded. Remember, it's not necessary to repeat the testimony of previous commentators. It is sufficient if you simply say that you agree with what a previous speaker has stated. Written testimony can be summarized but should not be read. When you are testifying, please identify the particular regulation proposal you are addressing. Please comment only on provisions of the article under discussion.

If you have a question about a proposed regulation, please re-phrase your question as a comment. For example, instead of asking what a particular subdivision means, you should state that the language is unclear and why. This will give the Board an opportunity to address your comments directly when the Board makes its final determination of its response to your comments.

Please keep in mind that this is a public forum to receive comments on the proposed regulations from interested parties. It is not intended to be a forum for debate or defense of the regulations. After all witnesses have testified, the testimony phase of the hearing will be closed.

Please raise your hand if you wish to comment on the proposed regulations. Is there anyone else who would like to comment on the

proposed regulations?

Thank you for participating in this regulation hearing. It is important that public comment on such policy issues be heard prior to the Board taking action on the proposal. The Board shall take into consideration all comments timely received. Upon careful consideration of all comments, the Board may take action to adopt the proposed text, or it may direct staff to modify the proposed text and make the text available for additional public comment.”

No public comments were received at this time.

B. Discussion and Possible Action to Adopt or Amend Proposed Text at Title 16, CCR Section 70 - Fees.

Mr. Stanley stated that this proposal would reduce the following fees for two years beginning July 1, 2014 and ending on June 30, 2016; application fee for the Uniform CPA Examination for First Time Applicants; application fee for the Uniform CPA Examination; application fee for CPA Certificate; application fee for Registering a Partnership or Corporation; fee for initial permit to practice as a partnership, corporation, or CPA; fee for renewal of a permit to practice as a partnership, corporation or CPA.

Mr. Stanley further stated that one written public comment was received regarding the proposal. Mr. Stanley stated that the comment noted states that the CBA “should avoid massive cuts and later significant increases to the fees by reducing the fees slightly and not to raise them again for many years; and to take a gradual conservative approach to reduce the fees to avoid yo-yo budgeting by examining the history of the CBA’s costs and regress what the fee line should be.”

**It was moved by Mr. Elkins, seconded by Mr. Oldman and unanimously carried by those present to reject the public comment because the comments of Ms. Davis have been incorporated into the CBA deliberations and to direct staff to take all steps necessary to complete the rulemaking process, including the filing of the final rulemaking package with the OAL, authorize the Executive Officer to make any non-substantive changes to the proposed regulations, and adopt the proposed regulations as originally noticed.**

C. Regulation Hearing Regarding Title 16, CCR Sections 16, 16.1 and 16.2 – Military Inactive Status.

Mr. Stanley read the following statement regarding the regulation hearing into the record:

“This is a public hearing on proposed regulations of the California Board of

Accountancy, Department of Consumer Affairs, to consider adopting regulations for Fees. On behalf of the Board and its staff, I'd like to welcome you. My name is Matthew Stanley and I serve as the Board's Regulation Analyst. I will preside over this hearing on behalf of the Board and the Department.

The California Board of Accountancy is contemplating this action pursuant to the authority vested by Sections 5010 and 5070.2 of the Business and Professions Code, authorizing the Board to amend, adopt, or repeal regulations for the administration and enforcement of the Chapter 1 of Division 3 of the Business and Professions Code.

For the record, the date today is January 25, 2013 and the time is approximately 9:13 a.m. Our hearing is being held at the Sheraton Suites at Symphony Hall located at 701 A. Street in San Diego, CA.

The notice for the hearing on these proposed regulations was published by the Office of Administrative Law. Interested parties on our mailing list have been notified of today's hearing. The language of the proposed regulations has been mailed to those who requested it and has been available on the board's Web site and upon request by other members of the public. Copies of the proposed regulations are available at the back of the room.

If the Board has received written comments on the proposal, those comments will be entered into the official record of the proceedings. The Board shall be provided and shall consider all written comments received up until 5:00 p.m., December 31, 2012. Anyone who wishes to comment in writing but does not want to speak today is welcome to do so. If we receive written comments on the proposed regulations, they will be acknowledged and entered into the official record of the rulemaking proceedings.

Those persons interested in testifying today should identify themselves and the section or subsection of the proposed regulations that they wish to address. Individuals will be called to testify in the order determined by recognition from the hearing officer. If you have a comment about the proposed regulation or any part or specific subsection of the proposal, please step up to the microphone and give your name, spelling your last name and tell us what organization you represent, if any. Speak loudly enough for your comments to be heard and recorded. Remember, it's not necessary to repeat the testimony of previous commentators. It is sufficient if you simply say that you agree with what a previous speaker has stated. Written testimony can be summarized but should not be read. When you are testifying, please identify the particular regulation proposal you are addressing. Please comment only on provisions of the article

under discussion.

If you have a question about a proposed regulation, please re-phrase your question as a comment. For example, instead of asking what a particular subdivision means, you should state that the language is unclear and why. This will give the Board an opportunity to address your comments directly when the Board makes its final determination of its response to your comments.

Please keep in mind that this is a public forum to receive comments on the proposed regulations from interested parties. It is not intended to be a forum for debate or defense of the regulations. After all witnesses have testified, the testimony phase of the hearing will be closed.

Please raise your hand if you wish to comment on the proposed regulations. Is there anyone else who would like to comment on the proposed regulations?

Thank you for participating in this regulation hearing. It is important that public comment on such policy issues be heard prior to the Board taking action on the proposal. The Board shall take into consideration all comments timely received. Upon careful consideration of all comments, the Board may take action to adopt the proposed text, or it may direct staff to modify the proposed text and make the text available for additional public comment.”

No public comments were received at this time.

The hearing was closed at 9:15 a.m.

D. Discussion and Possible Action to Adopt or Amend Proposed Text at Title 16, CCR Sections 16, 16.1 and 16.2 – Military Inactive Status.

Mr. Stanley stated that the proposed regulations would create an application incorporated by reference for a military inactive status, and note what documentation the CBA will deem as acceptable proof. Mr. Stanley stated there were no written comments received regarding the proposed regulations.

**It was moved by Mr. Oldman, seconded by Ms. Bell and unanimously carried by those present to direct staff to take all steps necessary to complete the rulemaking process, including the filing of the final rulemaking package with the OAL, and authorize the Executive Officer to make any non-substantive changes to the proposed regulations, and adopt the proposed regulations as originally noticed.**

E. Discussion and Possible Action to Adopt Proposed Text at Title 16, CCR Sections 12, 12.5, 37, 80, 80.1, 80.2, 81, 87, 87.1, 87.7, 87.8, 87.9, 88, 88.1, 88.2, and 89 – Continuing Education.

Mr. Stanley stated that at the September 2012 CBA, the CBA held a public hearing on its CE regulation proposal. Mr. Stanley further stated that the CBA adopted a motion to “direct staff to take all steps necessary to complete the rulemaking process, including sending out the modified text for an additional 15-day comment period. If after the 15-day public comment period, no adverse comments are received, authorize the Executive Officer to make any non-substantive changes to the proposed regulations and adopt the proposed regulations as described in the modified text notice.”

Mr. Stanley stated that during the 15-day comment period, an adverse comment was previously received and the issue was heard at the November CBA meeting; however, because an adverse comment was received, based on the motion adopted at the September 2012 meeting, the Executive Officer’s authority to adopt the proposal was nullified. Mr. Stanley stated that the CBA must adopt a new motion to grant the Executive Officer the authority to adopt the proposal and move forward with the rulemaking.

**It was moved by Ms. Anderson, seconded by Mr. Ramirez and unanimously carried by those present to direct staff to take all steps necessary to complete the rulemaking process, including filing of the final rulemaking package with the OAL, authorize the Executive Officer to make any non-substantive changes to the proposed regulations, and adopt the proposed regulations as amended in the 15-day Notice of Modified Text.**

IX. Committee and Task Force Reports.

A. Enforcement Program Oversight Committee (EPOC) (Alicia Berhow, Chair).

1. Report of the January 24, 2013 EPOC Meeting.
2. Discussion and Possible Action Regarding Adding a Model Petition for Reinstatement Decision Checklist to the CBA Disciplinary Guidelines.

Ms. Berhow stated that the EPOC discussed modifying the proposed Disciplinary Guidelines to include a Model Petition for Reinstatement Checklist. Ms. Berhow stated that the EPOC agreed the checklist would streamline the petition process for the CBA and

Administrative Law Judge.

**It was moved by Ms. Berhow, seconded by Ms. Anderson and unanimously carried by those present to accept the EPOC's recommendation to accept the concept of the Model Petition for Reinstatement Decision Checklist and add another option allowing for precedent condition prior to placing the licensee on probation.**

3. Discussion Regarding New Optional Conditions of Probation to be Used in Lieu of Monetary Administrative Penalties.

Ms. Berhow stated that the EPOC discussed the addition of an optional condition of probation allowing the imposition of non-monetary administrative penalties. Ms. Berhow further stated that the EPOC concluded that adding a new optional condition for non-monetary administrative penalties was not needed at this time and the EPOC agreed that non-monetary penalties can presently be used during the Stipulation and Settlement agreement process; therefore, no addition is needed to the CBA Disciplinary Guidelines.

There was no action taken on this item.

B. Committee on Professional Conduct (CPC) (Michael Savoy, Chair).

1. Report of the January 24, 2013 CPC Meeting.
2. Discussion and Possible Action to Initiate an Emergency Rulemaking and Regular Rulemaking to Adopt Title 16, California Code of Regulations Sections 5.5, 18, 19, 20, 21, 22, 26, 36.1 and 98 Regarding Practice Privilege.

Mr. Savoy reported that the CPC discussed proposed regulatory language to implement the new practice privilege provisions, which included a list of substantially equivalent states, definitions, forms, an appeals process and revisions to the CBA Disciplinary Guidelines. Mr. Savoy further stated that staff will present the final regulatory language of the proposal and a Finding of Emergency for adoption at the March CBA meeting.

**It was moved by Mr. Oldman, seconded by Ms. Berhow and unanimously carried by those present that the CBA accept the CPC recommendation to approve the proposed regulatory language while removing the definition of "headquartered in California," and direct staff to begin drafting the necessary rulemaking documents.**

3. Discussion and Policy Decision on a Potential Legislative Change to Include Pending Criminal Charges as a Cessation Notification Event for the Practice Privilege Provisions Set to Take Effect on July 1, 2013.

Mr. Savoy reported that the CPC discussed a proposal to require an out-of-state licensee who is exercising a practice privilege in California to notify the CBA when pending criminal charges occur and to cease practice until the individual receives written permission from the CBA to resume practice.

**It was moved by Ms. Anderson, seconded by Mr. Oldman and unanimously carried by those present that the CBA adopt the CPC's recommendation to direct staff to prepare a proposal requiring practice privilege holders to notify the CBA of pending criminal charges, but not require cessation of practice, in order to be more consistent with the notice the CBA receives for California licensees.**

C. Legislative Committee (LC) Larry Kaplan, Chair).

1. Report of the January 24, 2013 LC Meeting.
2. Discussion and Possible Action on Proposed Language for Changes to the New Practice Privilege Provisions Set to Take Effect July 1, 2013.

Mr. Kaplan stated that the LC discussed pursuing legislative language to provide the CBA with citation authority over practice privilege holders.

**It was moved by Mr. Savoy, seconded by Ms. Bell and unanimously carried by those present to accept the LC recommendation to direct staff to add citation authority over practice privilege holders and pursue its inclusion in the urgency omnibus bill.**

3. Update on Legislative Proposal for Allowing Candidates to Qualify for the Uniform CPA Examination Prior to Conferral of Baccalaureate Degree and Proposal for Extending Ability for Candidates to Qualify for Licensure Under Pathway 1 or Pathway 2 After the New Educational Requirements Take Effect on January 1, 2014.

Mr. Kaplan stated that CPC discussed staff provided statutory language to extend the existing pathways to licensure until December 31, 2015, for candidates who have completed the CPA

examination by December 31, 2013.

**It was moved by Mr. Campos, seconded by Mr. Oldman and unanimously carried by those present to accept the LC recommendation to approve the proposed statutory language extending the time frame for applicants to apply under the existing pathways for CPA licensure, if they have completed the CPA Examination by December 31, 2013.**

4. Update Regarding CBA Approved 2013 Legislative Proposal for Removing Specified Citation and Fine Information from the CBA Website.

Mr. Kaplan stated that staff provided the CPC an update on the CBA's proposal to remove citation and fine information from its website after five years if the fine is \$1,500 or less. Mr. Kaplan further stated that staff is continuing to seek an author and the LC directed staff to provide the CBA an update on the potential authors staff have already contacted.

There was no action on this item.

D. Peer Review Oversight Committee (PROC) (Nancy Corrigan, Chair).

Report of the December 4, 2013 PROC Meeting.

Ms. Corrigan reported that the PROC discussed its participation at the November 15-16, 2012 CalCPA Peer Review Committee meeting.

Ms. Corrigan stated that the feedback received from the two participating members was positive. Ms. Corrigan further stated that the PROC reviewed the second draft of the 2012 Annual PROC Report and began planning for a second onsite visit to CalCPA. Ms. Corrigan commented that she and another PROC member will attend the AICPA Peer Review board meeting on January 25, 2013.

Ms. Anderson inquired if other states maintain a peer review oversight committee.

Ms. Corrigan stated that the PROC is monitoring other states' PROC committees and the role they have in the peer review oversight process. Ms. Corrigan believes that the PROC's work and oversight of the peer review process should be ongoing.

E. Enforcement Advisory Committee (EAC) (Cheryl Gerhardt, Chair).

Report of the December 13, 2012 EAC Meeting.

Ms. Gerhardt reported that the EAC reviewed 13 closed files and the EAC agreed with closure of all 13 files. Ms. Gerhardt stated that one investigative hearing was held, which resulted in a citation.

F. Qualifications Committee (QC).

Report of the January 23, 2013 QC Meeting.

Mr. Franzella reported that five personal appearance and five Section 69 reviews were held at the QC meeting. Mr. Franzella stated that three personal appearances were not approved and one Section 69 appearance was not approved. Mr. Franzella noted that the next QC meeting will be held in Northern California on April 24, 2013.

XI. Acceptance of Minutes.

A. Draft Minutes of the November 15-16, 2012 CBA Meeting.

Mr. Ramirez requested that staff revise page 19452 regarding his statement about fraud continuing education.

B. Minutes of the November 15, 2012 CPC Meeting.

C. Minutes of the November 15, 2012 LC Meeting.

D. Minutes of the October 19, 2012 PROC Meeting.

E. Minutes of the October 18, 2012 EAC Meeting.

F. Minutes of the July 26, 2012 EPOC Meeting.

**It was moved by Mr. Ramirez, seconded by Ms. Berhow and carried by those present to approve the minutes with Mr. Ramirez's suggested changes to page 19452 of the CBA minutes. Mr. Campos and Ms. Salazar abstained.**

XII. Other Business.

A. American Institute of Certified Public Accountants (AICPA).

There was no report for this item.

B. National Association of State Boards of Accountancy (NASBA).

1. NASBA's Request for Vice Chair Recommendations for 2013-2014.

**It was moved by Mr. Kaplan, seconded by Mr. Ramirez and carried by those present to nominate Janice Gray for the position of NASBA Vice Chair. Ms. Anderson abstained.**

a. Accountancy Licensee Database (ALD) Task Force.

There was no report for this item.

b. Board Relevance & Effectiveness Committee.

There was no report for this item.

XIV. Closing Business

A. Public Comments.

Mr. Driftmier provided a report of the NASBA Education Committee meeting.

B. Agenda Items for Future CBA Meetings.

Ms. Kirkbride requested that the CBA discuss E-learning at a future meeting.

Mr. Ramirez requested that the CBA discuss pursuing a single license type at a future meeting.

C. Press Release Focus

Ms. Pearce stated the topic for consideration for a post-meeting press include the CBA's action of the fee reduction.

Adjournment.

President LaManna adjourned the meeting at 9:55 a.m. on Friday, January 25, 2013.

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Leslie J. LaManna, CPA, President

\_\_\_\_\_ K.T. Leung, CPA, Secretary-Treasurer

Kari O'Connor, Board Relations Analyst, and Patti Bowers, Executive Officer, CBA, prepared the CBA meeting minutes. If you have any questions, please call (916) 561-1718.

**DEPARTMENT OF CONSUMER AFFAIRS**

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**CPC Item I.**  
March 21, 2013

**CBA Item X.B.**  
March 21-22, 2013

**COMMITTEE ON PROFESSIONAL CONDUCT  
MINUTES OF THE MEETING**

January 24, 2013

**Draft**

Sheraton Suites San Diego  
701 A Street  
San Diego, CA 92101  
(619) 696-9800

**CALL TO ORDER**

Michael Savoy, Chair, called the meeting of the Committee on Professional Conduct (CPC) to order at 10:32 a.m on Thursday, January 24, 2013 at the Sheraton Suites San Diego. Mr. Savoy requested that the roll be called.

Present

Michael Savoy, Chair  
Hershel Elkins  
Sally Anderson  
Alicia Berhow  
Jose Campos  
Marshall Oldman

CBA Members Observing

Manuel Ramirez  
Katrina Salazar  
Diana Bell  
Leslie LaManna

CBA Staff and Legal Counsel

Patti Bowers, Executive Officer  
Deanne Pearce, Assistant Executive Officer  
Rich Andres, Information Technology Staff  
Andrew Breece, Legislation Coordinator

Dominic Franzella, Chief, Licensing Division  
Kari O'Connor, Executive Analyst  
Kristy Shellans, Senior Staff Counsel, DCA Legal Affairs  
Matthew Stanley, Regulations Analyst

Other Participants

Jeanie Tindel, California Society of Certified Public Accountants (CalCPA)  
Hal Schultz, CalCPA  
Kevin Berggren, Center for Public Information Law (CPIL)  
Reichel Everhart, Department of Consumer Affairs (DCA)

I. Approve Minutes of the November 15, 2012 CPC Meeting

**It was moved by Ms. Anderson, seconded by Ms. Berhow and carried to approve the minutes of the November 15, 2012 CPC Meeting. Mr. Campos abstained.**

II. Discussion and Possible Action to Initiate an Emergency Rulemaking and Regular Rulemaking to Adopt Title 16, California Code of Regulations Sections 5.5, 18, 19, 20, 21, 22, 26, 36.1, and 98 Regarding Practice Privilege

Mr. Stanley presented proposed regulatory language to implement the new practice privilege provisions. He stated that as a result of the program going into effect on July 1, 2013, emergency regulations are required. The CBA and the CPC may want to determine whether to seek any additional changes to the language before the final language is brought to the CBA at its March meeting.

He stated that staff incorporated the comments made in the November 2012 meeting into the proposed language provided in the attachment. He stated that Section 5.5 identifies states the CBA deems to be substantially equivalent, which matches NASBA's list of substantially equivalent states. Section 18 defines "headquartered in California" using the Uniform Accountancy Act (UAA) definition for "home office." The definition for "minor traffic violation" in Section 18 is identical to the definition previously used by the CBA in its fingerprinting regulation, and "principal place of business" is defined using the UAA definition.

Ms. Shellans stated that upon reviewing the definitions discussed at the November 2012 CBA meeting, she recommends not to define the terms out of concern that these definitions may lead to ambiguity and clarity problems. She stated that the definition for "headquartered in California" may lead to a conflict between where the client believes they are headquartered and where the definition describes where they are headquartered.

Ms. Shellans stated that the “principle place of business” definition was intended to determine when someone needs to be licensed in California; however, the definition provided by staff is confusing because of use of the word “designate” in the definition. She explains that “designate” typically refers to the completion of paperwork or other documents, but the intension behind mobility is to bypass the paperwork when an outside firm wants to practice in California. She suggested to either not define “principle place of business” and determine “principle place of business” on a case-by-case basis, or look at how other states have defined it. Eleven states have not defined “principle place of business” at all, and other states have different variations of the UAA definition. If the CBA is going to use a definition, Ms. Shellans recommends incorporating an objective similar to the definition used by the State of Washington.

Ms. Anderson stated that the definition should be modeled after the UAA definition because most accountants are more familiar with the UAA definition and it has adequately served other states.

Ms. Tindel concurred with Ms. Anderson and stated that the definition should be consistent with the UAA definition.

**It was moved by Ms. Anderson, seconded by Ms. Berhow and unanimously carried to remove the definition for “headquartered in California.”**

Mr. Stanley stated that Section 19 creates a Practice Privilege Pre-Notification Form for individuals who wish to practice in California, and have had a specified event or events occur during the prior seven years. Before a licensee can practice in California, they must first complete the form, provided in Attachment 2, if any of the events listed apply to them. After completing the form, the CBA enforcement division would examine the information provided on the form and make a determination as to whether the licensee should be allowed to practice immediately, wait a given amount of time before practicing, or be prohibited indefinitely from practicing in California. Practice privilege holders are required to complete the second form, provided in Attachment 3, and cease practice in California if any of the events listed occur. If any of the events listed in the form occur, the licensee must cease practice until they receive further notification by the CBA. If an out-of-state licensee’s practice privilege is revoked, the licensee may request to reinstate their practice privilege using the form provided in Attachment 4

Mr. Stanley stated that Section 20 creates an Out-of-State Accounting Firm Registration Form, which must be completed by an out-of-state firm prior to performing attest functions, as specified in the law. He stated that at the CBA November 2012 meeting, the CBA decided to include ownership information on the form, and exclude the fingerprinting requirements. In addition, the CBA decided to renew the registration every two years.

Mr. Stanley stated that at the November CBA meeting the CBA opted to adopt an appeals process for individuals with a revoked or suspended license. He stated that Section 21 would provide a 15 day appeals window following staff's action. If new information is available, it must be presented to staff prior to an appeal.

Mr. Stanley stated that Section 26 is existing regulations which needs to be made inoperative due to the new practice privilege requirements.

Mr. Stanley stated that the existing Section 21 needs to be renumbered to Section 36.1.

Mr. Stanley stated that Section 98 opens up the disciplinary guidelines to be amended. The changes occur on page 25 and 43 of the disciplinary guidelines. The new provisions are consistent with the minimum requirements in the new practice privilege provisions and the CBA's current disciplinary guidelines.

Mr. Stanley stated that at the November CBA meeting, the CBA voted to implement a regulatory provision to allow citation and fines for a failure to respond to a CBA inquiry. After further examination, it appears that the new Section 5096(e)(5), which requires practice privilege holders to respond to CBA inquires, is included in the provisions of Section 5096(g) which requires, at a minimum, that an individual in violation of any provision of (e) shall not practice for a minimum of one year. This would obviate the need for a citation and fine. He stated that there are a few minor changes suggested by legal counsel, which will addressed and be included in the language to be presented at the March CBA meeting. If the CBA approves staff's proposal, staff will begin drafting rulemaking documents.

**It was moved by Mr. Elkins, seconded by Ms. Anderson and unanimously carried to direct staff to begin drafting the necessary rulemaking documents.**

III. Discussion and Policy Decision on a Potential Legislative Change to Include Pending Criminal Charges as a Cessation Notification Event for the Practice Privilege Provisions Set to Take Effect on July 1, 2013

Mr. Breece presented a legislative proposal to require an out-of-state licensee exercising a practice privilege in California to notify the CBA when pending criminal charges occur and cease practice in California until the licensee receives written permission to resume practice. He stated that beginning July 1, 2013, an out-of-state licensee will be required to submit a pre-notification form to notify the CBA of criminal charges or pending criminal charges. If the licensee was charged with a criminal offense or has pending charges over the last seven years, other than a minor traffic violation, the licensee is prohibited from practicing until they receive written permission from the CBA.

Mr. Breece stated that when a California licensee, who has a record of fingerprints on file with the Department of Justice (DOJ), is arrested or has criminal charges filed, the CBA receives a notification for review and possible investigation. He stated that to ensure consistency in the information received from all California licensees and out-of-state licensees who are either seeking to practice in California or who exercise a practice privilege in California, CBA members may want to consider making the attainment of pending criminal charges a cessation notification event in Section 5096(e)(6-9). Once a cessation notification form is received, staff will evaluate the information to determine whether to authorize the resumption of practice for the practice privilege holder.

Mr. Breece stated that if the CBA members approved staff's proposed statutory language to make criminal charges a cessation notification event, staff will work with the Business, Professions, and Economic Development Committee on including the language in the urgency omnibus bill.

Ms. Anderson asked staff to clarify whether practice privilege holders would be required to notify the CBA and automatically cease practice when a pending criminal charge occurs, or to notify the CBA and can continue practicing until the CBA says otherwise.

Ms. Bowers stated that the practice privilege holders would be required to notify the CBA and automatically cease practice until they are authorized by the CBA.

Ms. Anderson asked if California licensees are required to cease practice when a pending criminal charge occurs.

Ms. Bowers stated that the CBA is notified when California licensees have pending criminal charges, but are not required to cease practice.

Ms. Anderson asked why staff is proposing to impose a higher standard for out-of-state licensees.

Ms. Bowers stated that staff's intent was to make the requirement more consistent with the pre-notification requirement.

Ms. Tindel stated that staff's proposal is more restrictive over out-of-state licensees than California licensees. Requiring out-of-state licensees to notify the CBA is reasonable, but requiring the out-of-state licensees to cease practice is far more expansive, and deserves more consideration.

Mr. Ixta stated that staff is notified by the DOJ when pending charges are issued against licensees, and staff can issue a Penal Code 23 intervention, which allows

the CBA to request a judge to restrict the licensee's practice. The Penal Code 23 intervention may not be available for out-of-state licensees.

**It was moved by Ms. Anderson, seconded by Mr. Savoy and unanimously carried to direct staff to prepare a proposal requiring practice privilege holders to notify the CBA of pending criminal charges, but not require cessation of practice.**

#### VI. Public Comments

No public comments were received.

#### VII. Agenda Items for Next Meeting

Ms. Anderson requested staff to prepare a proposal requiring practice privilege holders to notify the CBA of pending criminal charges, but not require cessation of practice, in order to be more consistent with the notice the CBA receives for California licensees.

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

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**LC Item II.**  
March 21, 2013

**CBA Item X.C.**  
March 21-22, 2013

**LEGISLATIVE COMMITTEE  
MINUTES OF THE MEETING**

January 24, 2013

**Draft**

Sheraton Suites San Diego  
701 A Street  
San Diego, CA 92101  
(619) 696-9800

**CALL TO ORDER**

Larry Kaplan, Chair, called the meeting of the Legislative Committee (LC) to order at 10:06 a.m on Thursday, January 24, 2013 at the Sheraton Suites San Diego. Mr. Kaplan requested that the roll be called.

**Present**

Larry Kaplan, Chair  
Diana Bell  
Katrina Salazar  
Sally Anderson  
Manual Ramirez

**CBA Members Observing**

Leslie LaManna  
Jose Campos  
Hershel Elkins  
Alicia Berhow  
Michael Savoy

**CBA Staff and Legal Counsel**

Patti Bowers, Executive Officer  
Deanne Pearce, Assistant Executive Officer  
Rich Andres, Information Technology Staff  
Andrew Breece, Legislation Coordinator

Dominic Franzella, Chief, Licensing Division  
Kari O'Connor, Executive Analyst  
Kristy Shellans, Senior Staff Counsel, DCA Legal Affairs  
Matthew Stanley, Regulations Analyst

Other Attendees

Jeanie Tindel, California Society of Certified Public Accountants (CalCPA)  
Hal Schultz, CalCPA  
Kevin Berggren, Center for Public Information Law (CPIL)  
Reichel Everhart, Department of Consumer Affairs (DCA)

- I. Approve Minutes of the July 26, 2012 and November 15, 2012 LC Meetings

**It was moved by Mr. Ramirez, seconded by Ms. Bell and carried to approve the minutes of the July 26, 2012 and November 15, 2012 LC Meetings. Ms. Salazar abstained.**

- II. Discussion and Possible Action on Proposed Language for Changes to the New Practice Privilege Provisions Set to Take Effect July 1, 2013

Mr. Breece presented proposed statutory language to provide the CBA authority to issue citations to out-of-state licensees practicing in California under the new practice privilege provisions that take effect July 1, 2013. He stated that the CBA is currently authorized by Section 125.9 of the Business and Professions Code (B&P Code) to issue citations and fines to California licensees for specified violations.

Mr. Breece also stated that Section 5096.2 provides the CBA the authority to revoke, suspend, or fine practice privilege holders for specified violations; however, the section does not provide the CBA citation authority. He stated a legislative proposal is necessary to ensure the CBA has the authority to issue citations to out-of-state licensees, similar to California licensees, and to provide the CBA with consistent enforcement authority.

**It was moved by Mr. Ramirez, seconded by Ms. Bell and carried unanimously to approve the proposed statutory language authorizing the CBA to add citation authority where necessary, and pursue its inclusion in the urgency omnibus bill.**

- III. Update on Legislative Proposal for Allowing Candidates to Qualify for the Uniform CPA Examination Prior to Conferral of Baccalaureate Degree and Proposal for Extending Ability for Candidates to Qualify for Licensure Under Pathway 1 or Pathway 2 After the New Educational Requirements Take Effect on January 1, 2014.

Mr. Breece stated that at the November CBA meeting, members voted to approve statutory language to allow prospective CPA applicants enrolled in a five-year master's degree program to take the CPA Exam once they have completed the baccalaureate degree requirements, provided that the candidate's institution mails a copy of the candidate's official transcripts and a letter confirming that the candidate has fulfilled the baccalaureate degree requirements and is enrolled the institution's five-year master's degree program.

Mr. Breece stated that the statutory language for the candidates enrolled in a five-year master's degree program was sent to the Business, Professions, and Economic Development Committee to be placed in an urgency omnibus bill.

Mr. Breece stated that the CBA also voted to approve a proposal to allow a CPA candidate who has completed all four sections of the CPA Exam on or before December 31, 2013 to continue to apply for licensure under the present pathways until December 31, 2015. He stated that staff drafted statutory language for the extension of the pathways, and due to the time sensitivity of getting the language placed into the urgency-omnibus bill, staff included the pathway extension language with the submission of the five-year master's degree language to the Business, Professions, and Economic Development Committee.

**It was moved by Ms. Anderson, seconded by Mr. Ramirez and carried unanimously to approve the proposed statutory language to extend the time frame for applicants to apply under the existing pathways for CPA licensure until December 31, 2015, if they completed the CPA Exam by December 31, 2013.**

IV. Update Regarding CBA Approved 2013 Legislative Proposal for Removing Specified Citation and Fine Information from the CBA Website

Mr. Breece presented an update on a legislative proposal approved at the November Board meeting to remove citation and fine information from the CBA's website after five years if the fine is \$1,500 or less. He stated that the proposal was a result of Senate Bill (SB) 706 in 2011, which requires various boards, including the CBA, to post citation and fine information on the CBA website indefinitely. Mr. Breece reported that although staff is presently seeking an author to carry the legislation, it is unlikely a legislator will carry the proposal due to opposition voiced in the November CBA meeting.

Mr. Ramirez directed staff to continue its efforts to locate an author. He additionally requested staff to provide the CBA members an update on the legislators staff have contacted to carry the CBA approved language.

V. Public Comments

No public comments were received

VI. Agenda Items for next meeting

No agenda items were identified.

There being no further business, the meeting was adjourned at 10:19 a.m.



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**EPOC Item I.**  
March 21, 2013

**CBA Item X.D.**  
March 21- 22, 2013

**ENFORCEMENT PROGRAM OVERSIGHT COMMITTEE  
MINUTES OF MEETING**

Thursday, January 24, 2013

Sheraton Suites, San Diego  
701 A Street  
San Diego, CA 92101

Roll Call and Call to Order

DRAFT

Alicia Berhow, Committee Chair, called the meeting of the California Board of Accountancy's (CBA) Enforcement Program Oversight Committee (EPOC) to order at 9:30 a.m. Ms. Berhow requested that the role be called.

EPOC Members in Attendance

Alicia Berhow, Chair  
Diana Bell  
Hershel Elkins  
Katrina Salazar  
Michael Savoy

CBA Members Observing

Leslie LaManna  
Larry Kaplan  
Sally Anderson  
Manuel Ramirez

CBA Staff and Legal Counsel in Attendance

Patti Bowers, Executive Officer  
Deanne Pearce, Assistant Executive Officer  
Rafael Ixta, Enforcement Chief  
Dominic Franzella, Licensing Division Chief  
Paul Fisher, Supervising Investigative CPA  
Andrew Breece, Legislation Analyst  
Rich Andres, Information Technology Staff

Kari O'Connor, Executive Analyst  
Matthew Stanley, Regulation Analyst  
Kristy Shellans, Senior Staff Counsel, DCA Legal Affairs  
Carl Sonne, Deputy Attorney General

Members of the Public

Jeannie Tindel, California Society of Certified Public Accountants  
(CalCPA)  
Hal Schultz, CalCPA  
Reichel Everhart, Deputy Director of Board Relations, DCA  
Kevin Berggren, Center for Public Interest Law (CPIL)

- I. Approve Minutes of the July 24, 2012 EPOC Meeting.

**It was moved by Mr. Elkins, seconded by Ms. Bell, and carried by those present to approve the minutes of the July 24, 2012 EPOC meeting.**

- II. Discussion and Possible Action Regarding Adding a Model Petition for Reinstatement Decision Checklist to the CBA Disciplinary Guidelines.

Mr. Ixta stated that the purpose of this agenda item is for members of the Enforcement Program Oversight Committee (EPOC) to decide whether to add a model Petition for Reinstatement of CPA's Certificate Decision Checklist (Decision Checklist) to the next edition of the Manual of Disciplinary Guidelines and Model Disciplinary Orders (Disciplinary Guidelines).

Mr. Ixta stated that in July 2012, Ms. Shellans, Senior Staff Counsel, DCA Legal Affairs, suggested adding a reinstatement decision checklist to the Disciplinary Guidelines. The checklist would be used by Administrative Law Judges to facilitate drafting reinstatement decisions for CBA members. The Decision Checklist was developed on a model used by the California State Board of Pharmacy's Reinstatement Checklist and adapted to CBA's specific laws and procedures.

Mr. Ixta provided an overview of the proposed Decision Checklist (**Attachment 1 Page 1**). The proposed Model Reinstatement Order Language includes language to use in petitions for reconsideration considered by the CBA and includes: 1) Grant petition without restrictions on the license; 2) Grant petition and place license on probation, and 3) Deny petition with option to file a new petition after one to three years have elapsed from the effective date of decision.

Mr. Ixta explained that Standard Conditions of Probation are included in all disciplinary matters with condition #6 (**Attachment 1, Page 1**) providing cost reimbursement and payment variations specific to a case.

Mr. Ixta further explained Optional Conditions of Probation (**Attachment 1, Page 2**) are listed by title only. Each condition has complete descriptions in CBA's Disciplinary Guidelines which is made available at all meetings.

Mr. Ixta stated that the Checklist used by the California State Board of Pharmacy contained four options. The fourth option, conditions(s) precedent, was used to reinstate a license upon completion of specified conditions. This option was not included since staff believed that Option 2, grant petition and place license on probation, would accomplish the same outcome. Ms. Shellans distinguished both options and recommended including the fourth option.

Mr. Elkins questioned whether probation costs were included in prosecution and investigation costs. Mr. Ixta explained probation costs are not a standard condition of probation and are not addressed in CBA's Disciplinary Guidelines. Ms. Shellans stated the law for reinstatement only allows costs for investigation and prosecution, but suggested the CBA can look at adding reimbursement as a condition of probation.

**It was moved by Ms. Bell, seconded by Mr. Elkins and unanimously carried to accept the concept of the Decision Checklist with adding another option to the Model Reinstatement Order Language allowing for condition precedent to placing the licensee on probation or to granting the license.**

III. Discussion Regarding New Optional Conditions of Probation to be Used in Lieu of Monetary Administrative Penalties.

Mr. Ixta stated the purpose of this agenda item is for members to deliberate the addition of an optional condition of probation that allows for the imposition of non-monetary administrative penalties. Proposed penalties include funding scholarships, donating funds or providing free continuing education classes. This topic was previously submitted to the CBA members at its January 26-27, 2012 CBA meeting and included specific questions that were responded to by the DCA Legal Office (**Attachment 2**). The DCA Legal Office concluded that such conditions were not permitted as the conditions benefitted individuals and not groups of people. However, activities that benefit the general public and are not contrary to statute or regulation may be included as a condition of probation.

Concern was expressed by members about effective monitoring, the impact on monetary penalties and policy. Ms. Shellans stated her concern about legal authority and the extent to which CBA can compel someone to participate in a particular activity.

Following discussion by EPOC members, DCA legal counsel, and staff, it was concluded that adding a new optional condition for non-monetary administrative penalties was not needed at this time.

IV. Public Comments.

No public comments were received.

V. Agenda Items.

There were no recommendations for agenda items for the next EPOC meeting.

Adjournment.

There being no further business to conduct, the EPOC meeting adjourned at approximately 10:00 a.m.

## California Board of Accountancy

## Petitions for Reinstatement of CPA's Certificate

## DECISION CHECKLIST

MODEL REINSTATEMENT ORDER LANGUAGE

1. **Grant petition without restrictions on the license.** The Order would read as follows:

The petition for reinstatement filed by \_\_\_\_\_ is hereby granted and Petitioner's certificate shall be fully restored.

2. **Grant petition and place license on probation.** The Order would read as follows:

The petition for reinstatement filed by \_\_\_\_\_ is hereby granted. Petitioner's certificate shall be fully restored, 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:

3. **Deny petition.** The Order would read as follows:

The petition for reinstatement filed by \_\_\_\_\_ is hereby denied.

- Option:** in accordance with Section 5115 (a) of the Business and Professions Code, Petitioner may file a new petition for reinstatement only after \_\_\_ years have elapsed from the effective date of this decision.

**Note:** (3 years maximum)

Business and Professions Code section 5115 also allows a person to file a petition for a reduction in penalty. The above checklist can also be used for these petitions.

STANDARD CONDITIONS OF PROBATION: (Conditions 5-14 To Be Included In All Cases of Probation)

- #6 **Cost Reimbursement:**  
Respondent shall reimburse the CBA \$\_\_\_\_\_ for its investigation and prosecution costs. The payment shall be made within \_\_\_ days/months of the date the 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].

Note: Cost reimbursement to be used if the Petitioner has not paid costs ordered in the original Decision and Order.

**OPTIONAL CONDITIONS OF PROBATION: (To Be Included In Cases Where Appropriate)**

- #15 **Supervised Practice**
- #16 **Restitution:**  
Respondent shall make restitution to \_\_\_\_\_ in the amount of \$\_\_\_\_\_ and shall provide the CBA with a written release from \_\_\_\_\_ attesting that full restitution has been paid. Restitution shall be completed before the termination of probation.
- #17 **Restricted Practice:**  
Respondent shall be prohibited from \_\_\_\_\_ (performing certain types of engagements such as audits, reviews, compilations, or attestation engagements, etc.), and/or from practice in \_\_\_\_\_ (certain specialty areas, i.e. bookkeeping, write up, tax, auditing, etc.).
- #18 **Engagement Letters**
- #19 **Library Reference Materials**
- #20 **Ethics Continuing Education**
- #21 **Regulatory Review Course**
- #22 **Peer Review**
- #23 **CPA Exam**
- #24 **Enrolled Agent Exam**
- #25 **Continuing Education Courses:**  
Respondent shall complete and provide proper documentation of (specified) professional education courses within (a designated time). This (shall be/shall not be) in addition to continuing education requirements for relicensing.

OR

Respondent shall complete professional education courses as specified by the CBA or its designee at the time of respondent's first probation appearance. The professional education courses shall be completed within a period of time designated and specified in writing by the CBA or its designee, which time frame shall be incorporated as a condition of this probation. This (shall be/shall not be) in addition to continuing education requirements for relicensing.

Failure to satisfactorily complete the required courses as scheduled or failure to complete same no later than 100 days prior to the termination of probation shall constitute a violation of probation.

- #26 **Active License Status**
- #27 **Samples- Audit, Review or Compilation**
- #28 **Probation from Handling Funds**

- #29 **Community Service – Free Services:**  
Respondent shall participate in a community service program as directed by the CBA or its designee in which 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\_\_. Respondent is entirely responsible for his or her performance in the program and the CBA assumes neither express nor implied responsibility for respondent's performance nor for the product or services rendered.
- #30 **Relinquish Certificate**
- #31 **Notification to Clients/Cessation of Practice**
- #32 **Administrative Penalty:**  
Respondent shall pay to the CBA 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 CBA's decision is final
- #33 **Medical Treatment**
- #34 **Psychotherapist**
- #35 **Rehabilitation Program/Chemical Dependence**
- #36 **Drugs - Abstain From Use**
- #37 **Drugs - Screening**
- #38 **Biological Fluid Testing**

Conditions 33-38 shall be used when evidence indicates respondent may have physical or mental ailment(s) or condition(s) which contributed to the violation or when the same are alleged by respondent to be a contributing factor to the violation(s).





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CBA Item IX.E.  
 January 26 - 27, 2012

## Discussion Regarding Options for Using Administrative Penalties in Disciplinary Cases

Presented by: Rafael Ixta, Chief, Enforcement Division  
 Date: December 23, 2011

### Purpose of the Item

To inform CBA members whether licensees can be required to fund scholarships, donate funds, or provide free continuing education to licensees in a stipulated settlement in lieu of imposing administrative penalties. This issue was deliberated by CBA members at the July 21, 2011 CBA meeting.

### Action(s) Needed

See recommendation.

### Background

Specific questions posed to the DCA Legal Office are noted below along with the legal counsel's responses:

1. Q: Can the CBA require a licensee to establish a scholarship fund, donate funds, or provide CE at no cost to those attending?

A: *Government Code section 11415.60 permits a state agency, including the CBA, to enter into stipulations that would not otherwise be authorized by the agency's laws, provided that it does not violate state or federal law as follows: "The terms of a settlement may not be contrary to statute or regulation, except that the settlement may include sanctions the agency would otherwise lack power to impose." Therefore, the CBA could consider entering into stipulations that would not violate the law or the public policy of the state.*

*Government Code section 19990 provides that a state officer may not engage in any "employment, activity, or enterprise which is clearly inconsistent, incompatible, in conflict with, or inimical to his or her duties as a state officer or employee...Activities and enterprises deemed to fall in these categories shall include:... (a) Using the prestige or influence of the state or the appointing authority for the officer's or employee's private gain or advantage or the private gain of another...(b) Using state time, facilities, equipment, or supplies for private gain or advantage." Section 19990 also mandates that state agencies develop policies setting forth prohibitions and*

Discussion Regarding Options for Using Administrative Penalties or Other Administrative Remedies in Disciplinary Cases

Page 2 of 3

*providing examples of these types of prohibited activities. These rules are set forth more thoroughly in the DCA's Incompatible Work Activities Policy OHR-10-01 and the Governor's Executive Order No. 66-2 "Standards of Ethical Conduct" for gubernatorial appointees.*

*With the foregoing in mind, our office recommends that any stipulation not include any provision for an activity that would directly benefit any one individual or class of individuals and the proposed administrative condition or sanction should be connected to some concrete public benefit. For instance, the requirements to fund a community outreach event or public service announcement about accounting practices would directly benefit the public in general, but no individual or class of individuals in particular. However, activities that would benefit a particular person (scholarship fund for specified individuals or donate funds to a nonprofit corporation) or class of persons (provide free CE to licensees) would probably violate the prohibitions of Section 19990 and state policy governing incompatible work activities and would not be legally permissible.*

2. Q: Can any of the above be prohibited by the California Constitution, Article 16, section 6, or any other state or federal statute, as a "gift of public funds"?

*A: Article 16, section 6 prohibits, in part, the Legislature from having the "power to make any gift or authorize the making of any gift, of any public money or thing of value to any individual, municipal or other corporation whatever..."*

*As long as the foregoing statute and state policies are adhered to it should not be prohibited provided that no funds collected from the licensee are paid directly to the Board by the disciplined licensee. If the funds are paid directly to the Board by the licensee and then used by the Board for the financial gain of any vendor there could be arguments about "gifting" in violation of the California Constitution (state contracting law issues would also have to be considered). All funding for such activities should be paid directly by the licensee to any vendors for a particular purpose and benefitting the public in general to avoid potential "gifting" arguments.*

Comments

Based on the above, activities that benefit the general public and are not contrary to statute or regulation may be included as a condition of probation. Furthermore, to avoid "gifting" issues, all funding for such activities should be paid directly by the licensee to the vendors.

The Manual of Disciplinary Guidelines and Model Disciplinary Orders, contains "Community Services - Free Services" as an optional condition of probation. The text of this condition is:

*"Respondent shall participate in a community service program as directed by the Board or its designee in which respondent provides free professional services on a regular basis to a community or charitable facility or agency, amounting to a minimum \_\_\_ hours. Such services to begin no later than \_\_\_ days. Respondent*

Discussion Regarding Options for Using Administrative Penalties or Other Administrative Remedies in Disciplinary Cases

Page 3 of 3

*shall submit proof of compliance with this requirement to the Board. Respondent is entirely responsible for his or her performance in the program and the Board assumes neither expressed nor implied responsibility for respondent's performance nor for the product or services rendered."*

Recommendation

For stipulated settlements, the above paragraph may be modified consistent with any public benefit activity imposed as a condition of probation. For proposed decisions, the CBA members may direct staff to revise the above paragraph for inclusion in the next edition of the Manual of Disciplinary Guidelines and Model Disciplinary Orders. The revised paragraph will be available to administrative law judges as an optional condition of probation.



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CBA Item X.E.  
 March 21-22, 2013

**CALIFORNIA BOARD OF ACCOUNTANCY (CBA)  
 PEER REVIEW OVERSIGHT COMMITTEE (PROC)**

**MINUTES OF THE  
 DECEMBER 4, 2012  
 PROC MEETING**

California Board of Accountancy  
 2000 Evergreen Street, Suite 250  
 Sacramento, CA 95818-3832  
 Telephone: (916) 263-3680

<u>PROC Members:</u>	<u>December 4, 2012</u>
Nancy Corrigan, Chair	10:00 a.m. – 11:50 a.m.
Robert Lee, Vice Chair	10:00 a.m. – 11:50 a.m.
Katherine Allanson	10:00 a.m. – 11:50 a.m.
Gary Bong	Absent
T. Ki Lam	10:00 a.m. – 11:50 a.m.
Sherry McCoy	10:00 a.m. – 11:50 a.m.
Seid M. Sadat	10:00 a.m. – 11:50 a.m.

Staff:

Rafael Ixta, Chief, Enforcement Division  
 April Freeman, Peer Review Analyst  
 Julie Morrow, Peer Review Analyst

Other Participants:

Linda McCrone, California Society of Certified Public Accountants (CalCPA)  
 Jeannie Tindel, CalCPA  
 Jason Fox, CalCPA

I. Roll Call and Call to Order.

Nancy Corrigan, Chair, called the meeting of the Peer Review Oversight Committee (PROC) to order at 10:00 a.m.

II. Report of the Committee Chair.

A. Approval of October 19, 2012 Minutes.

Ms. Corrigan asked if members had any edits to the minutes of the October 19, 2012 PROC meeting. Sherry McCoy said that item III.A. on page 2 should be changed to read, "Ms. McCoy stated that the meeting included a discussion of the annual report, the improved procedure manuals and the PRISM system being updated." The annual report was not improved as stated in the minutes.

**It was motioned by Seid Sadat, seconded by Kathy Allanson, and unanimously carried by those present to accept the revision and adopt the revised minutes of the October 19, 2012 PROC meeting.**

B. Report on the November 15-16, 2012 CBA Meeting.

Ms. Corrigan was unable to attend the November CBA meeting. She stated that she submitted her report in writing to the CBA and Rafael Ixta presented it on her behalf. Her report included a status of the October 19, 2012 PROC meeting, review of the first draft of the PROC's 2012 Annual Report, oversight activities, coordinating the second on-site visit of CalCPA and onsite review procedures, approved working drafts of additional checklists to complete the checklist for oversight duties, live meetings versus remote meetings, and notification of today's meeting in Sacramento. Rafael Ixta stated that the CBA asked if there are currently sufficient peer reviewers at CalCPA. Linda McCrone, CalCPA, stated that she had replied that there are sufficient reviewers now in California. There is a directory of reviewers that is readily accessible to CPAs.

C. Resolution for PROC Member Gary Bong.

D. Resolution for PROC Member T. Ki Lam:

Ms. Corrigan presented the resolution for Ms. Lam. Mr. Bong was not present and his resolution will be sent to him. Ms. Corrigan also stated that the CBA wants to rotate members of the PROC. Member's can reapply to be on the PROC at a future date.

III. Report on PROC Activities.

A. Report on the November 15-16, 2012 CalCPA Peer Review Committee meeting.

Robert Lee and Kathy Allanson attended the meeting. Ms. Allanson attended a committee meeting discussing how the CalCPA is improving peer reviewers' performance. She said they keep a list of reviewers they want to discuss. They look at the reviewers critically and send monitoring or performance letters if they have not met standards. They conduct additional oversight of these reviewers to make sure they are doing a good job. The committee members have a huge workload to get ready for the Report Acceptance Body (RAB) meeting; each person had to know the details of about 70 peer reviewers to be ready for the RAB meeting.

Mr. Lee said that he was impressed that they take their job seriously and stayed on each peer review until it was fully discussed. He said that the American Institute of Certified Public Accountants (AICPA) was there to provide oversight and had glowing remarks.

Linda McCrone said that the number of peer review reports reviewed per RAB meeting has crept up and she wants to decrease the number to about 50, which is what they currently do in Texas.

Rafael Ixta reminded all PROC members that they need to fill out the checklist and turn them in to Julie Morrow. Ms. Corrigan recommended a turnaround time of 30 days.

B. Scheduling of the 2013 Administrative Site Visit of CalCPA.

Ms. Corrigan advised members that they need to talk about the timing of the 2013 administrative site visit of CalCPA. She said that last year they went in February, but that may not be the best time. Ms. McCrone said that late April or early May would be better. January is not a good month and they are flooded with peer reviews before tax season. Mr. Ixta recommended that it be done annually by June 30<sup>th</sup>. Members agreed that the site visit would be done on May 15-16, 2013. The engagement letter issued for the 2013 administrative site visit of CalCPA needs to be revised and discussed at the February PROC meeting.

C. Assignment of Future PROC Activities.

Ms. Corrigan made/confirmed the following assignments:

- December 11, 2012 CalCPA RAB Meeting – Remove from calendar.
- January 10, 2013 (originally February 20, 2013) – Kathy Allanson will be at the Glendale office at 10:00 a.m. to review work papers.
- January 25, 2013 AICPA Peer Review Board (PRB) Meeting (San Diego) – Nancy Corrigan, Kathy Allanson, & Seid Sadat.
- January 29, 2013 CalCPA RAB Meeting – Seid Sadat & Nancy Corrigan.
- April 18, 2013 CalCPA RAB Meeting needs to be reassigned. Can be done at the Northern California office.
- May 9-10, 2013 CalCPA Peer Review Committee (PRC) Meeting – Seid Sadat and one other person will go to San Diego. Ms. Corrigan will wait to see who else joins the PROC before deciding on a second person.

Nancy Corrigan directed staff to seek approval for three people to attend the AICPA PRB open session meeting on January 25, 2013 from 8:00 a.m. - 12:00 p.m. in San Diego.

IV. Reports and Status of Peer Review Program.

A. Updates on Peer Review Reporting Forms Received, Correspondence to Licensees, and Citations Issued to Licensees that Failed to Respond to CBA.

Julie Morrow reported that as of November 6, 2012, over 50,000 peer review reporting forms have been submitted to the CBA. The reporting forms are categorized as follows:

License Ending In	Reporting Deadline	Peer Review Required	Peer Review Not Required	Not Applicable (Non-firms)	Total	Licensees Still Needing to Report
01-33	7/1/11	2,435	4,247	15,591	22,273	749
34-66	7/1/12	1,746	3,797	12,466	18,009	2,457
67-00	7/1/13	611	1,942	7,439	9,992	10,962
		4,792	9,986	35,496	50,274	14,168

Ms. Morrow advised members that on October 18, 2012, enforcement staff sent 363 deficiency letters to licensees with a license in a delinquent status who were required to submit a Peer Review reporting form by July 1, 2011, but have not yet done so. She also told members that the enforcement staff is in the process of sending out citations to over 2,000 licensees who have not responded to the CBA.

Ms. Morrow gave the status of the citations as of November 6, 2012.

B. Status of PROC Roles and Responsibilities Activity Tracking.

Ms. Morrow stated that the activity tracking charts for 2012 and 2013 have been updated to capture recently attended activities and upcoming events as of November 6, 2012.

V. Report of the Enforcement Chief.

A. Development of the 2012 Annual Report to the CBA.

Rafael Ixta stated that the Message from the Committee Chair was added. The goal is to have a final draft ready for the February 22, 2013 PROC meeting. He asked if there are any revisions.

The following revisions were made:

- Page 4 – the Peer Review Reporting Forms matrix will be completed at the end of the year.
- Page 5 – Linda McCrone stated that she will have updates to the CalCPA data at the end of the year.
- Page 7 – Nancy Corrigan wrote and submitted reports to the CBA for the meetings she was unable to attend.
- Page 9 – The RAB meeting on December 11, 2012 was deleted and the November 15, 2012 (in person) RAB meeting was added.

Kathy Allanson inquired if PROC members should review the comments received with the Peer Review Voluntary survey. This item will be placed on the February 22, 2013 PROC agenda for review and discussion of the comments received.

B. Discussion and Possible Action Regarding the NASBA's Compliance Assurance Committee (CAC) Response to the PROC's August 31, 2012 Letter Regarding Oversight of the National Peer Review Committee (NPRC).

Mr. Ixta went through each of the requests addressed in the letter. He said that there are three options for providing oversight of the NPRC: (1) do it ourselves, (2) defer to CAC, and (3) defer to CAC and do some on our own. Robert Lee recommended that we calendar these items and discuss at future PROC meetings. Ms. Corrigan said that we are not yet ready to make a decision. Mr. Ixta recommended that we write a follow-up letter thanking the CAC for their information and for keeping the PROC in the loop. The PROC will write the letter and copy the CBA. This will be mentioned in the next annual report.

VI. Future Agenda Items.

Future agenda items include:

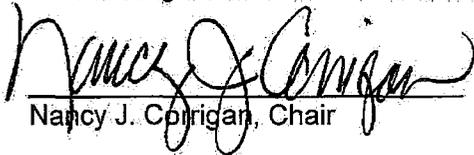
- Q&As on website for retirement status licensees
- PROC 2012 Annual Report to CBA
- PROC to review the survey comments
- CAC's response letter
- Response to letter from licensee regarding Peer Review's impact on small businesses
- Peer Review programs in other States
- CalCPA's Annual Report on Oversight

VII. Public Comment for Items Not on the Agenda.

Linda McCrone passed out the CalCPA Annual Report on Oversight for 2011. She said that the annual report for each of the past three years will be posted on their website.

VIII. Adjournment.

There being no further business, the meeting was adjourned at 11:50 a.m.

  
Nancy J. Corrigan, Chair

Julie Morrow, Peer Review Analyst, prepared the PROC meeting minutes. If you have any questions, please call (916) 561-1762.



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## **ENFORCEMENT ADVISORY COMMITTEE MINUTES OF MEETING**

December 13, 2012

Westin Hotel San Diego  
 400 West Broadway  
 San Diego, CA 92101

**FINAL**

### **I. ROLL CALL AND CALL TO ORDER**

Enforcement Advisory Committee Chair Cheryl Gerhardt called the regularly scheduled meeting of the Enforcement Advisory Committee (EAC) of the California Board of Accountancy (CBA) to order at 9:10 a.m. on December 13, 2012.

#### Enforcement Advisory Committee

Cheryl Gerhardt, Chair	9:10 a.m. – 3:00 p.m.
James Rider, Vice Chair	9:10 a.m. – 11:30 p.m.
Joseph Buniva, Committee Member	9:10 a.m. – 3:00 p.m.
Gary Caine, Committee Member	9:10 a.m. – 11:30 p.m.
Mary Rose Caras, Committee Member	9:10 a.m. – 11:30 p.m.
Jeffrey De Lyser, Committee Member	Absent
Robert A. Lee, Committee Member	9:10 a.m. – 11:30 p.m.
Mervyn McCulloch, Committee Member	9:10 a.m. – 11:30 p.m.
James Petray, Committee Member	Absent
Joseph Rosenbaum, Committee Member	9:10 a.m. – 11:30 p.m.
Seid Sadat, Committee Member	9:10 a.m. – 11:30 p.m.
Michael Schwarz, Committee Member	9:10 a.m. – 3:00 p.m.
Nancy J. Corrigan, Committee Member	9:10 a.m. – 3:00 p.m.

#### Staff and Legal Counsel

Rafael Ixta, Enforcement Chief  
 Paul Fisher, Supervising Investigative CPA  
 Allison Nightingale, Enforcement Secretary  
 Jesus Silva, Enforcement Analyst  
 Carl Sonne, Deputy Attorney General, Department of Justice

## II. REVIEW ENFORCEMENT FILES ON INDIVIDUAL LICENSEES

The EAC adjourned into closed session under provisions of Government Code Section 11126(c)(2) and Business and Professions Code (B&P) Section 5020.

EAC members convened into closed session at 9:15 a.m. and reconvened into open session at 10:30 a.m.

## III. REPORT OF THE COMMITTEE CHAIR

### A. Approval of the Minutes of the October 18, 2012 EAC Meeting

**Following review, it was moved by Mr. Lee, seconded by Mr. Schwarz, and unanimously carried to approve the minutes of the October 18, 2012 EAC meeting.**

The minutes for this meeting will be submitted to the CBA members for review at the next regular CBA meeting.

### B. Report of the November 15-16, 2012 CBA Meeting

Ms. Gerhardt attended the November 15-16, 2012 CBA meeting. She reported that EAC member Mary Rose Caras was appointed as Vice Chair to the EAC effective January 1, 2013. Ms. Gerhardt also stated that she's been re-appointed as Chair to the EAC.

Ms. Gerhardt also reported that Chair of the Peer Review Oversight Committee (PROC) member Nancy J. Corrigan was appointed to the EAC.

Ms. Gerhardt also reported that EAC member James Petray served his 9 years on the EAC and has termed out. Ms. Gerhardt read his resolution to the EAC members.

## IV. REPORT OF THE ENFORCEMENT CHIEF

### A. Enforcement Division Report

Mr. Ixta reported that as of October 15, 2012, 399 cases are pending, but that number decreased from 506 in the previous reporting period. Ninety-four percent of those investigations have been open for less than 18 months, three percent of the investigations have been open for 18 to 24 months and the other three percent were over 24 months old. The report was provided in the EAC packets.

## V. OTHER BUSINESS

### A. Report of the November 15, 2012 Committee on Professional Conduct Meeting

Mr. Ixta reported that the CBA will seek a legislative change to allow applicants, who have passed all four parts of the Uniform CPA Examination on or before December 31, 2013, to continue to apply for licensure under the existing pathways. This will allow applicants who may have been in the process of

completing the licensure requirements an additional two years to obtain the required general accounting experience before being subject to the new educational requirements that become effective on January 1, 2014.

Mr. Ixta also reported on Senate Bill (SB) 1405 regarding military inactive status and mobility. Mr. Ixta stated SB 1405 previously dealt with military inactive status provisions. While those provisions are still in the bill, it was amended to include mobility provisions as well. The amendments provide that California's current practice privilege program would become inoperative on July 1, 2013, which would be replaced with new practice privilege provisions. Under the new law an out-of-state Certified Public Accountant (CPA) will be able to practice public accountancy in the state of California without notifying the CBA or paying a fee.

Mr. Ixta also reported on Section 27 of the B&P Code which requires the CBA to post on its website citations and fines issued beginning January 1, 2012.

#### B. Report of the November 15, 2012 Legislative Committee Meeting

Mr. Ixta reported that the CBA is pursuing legislative changes allowing candidates for the Uniform CPA Examination to qualify to test prior to the conferral of a baccalaureate degree if the applicant submits a letter from the college or university along with a transcript attesting to the fact that the individual completed all requirements for a baccalaureate degree and is enrolled in a five-year masters program.

#### PUBLIC COMMENTS FOR ITEMS NOT ON THE AGENDA

There were no public comments offered during the meeting.

#### VII. CONSIDER DISCIPLINARY ACTION AGAINST INDIVIDUAL ACCOUNTANTS

[Closed session as authorized by Government Code Sections 11126(c)(2) and (f)(3) and B&P Code Section 5020 conducted after the general meeting to interview individual accountants and to consider possible disciplinary action against accountants prior to the filing of an accusation.]

#### VIII. ADJOURNMENT

The next EAC meeting is scheduled for January 31, 2013 at the Westin LAX Hotel in Los Angeles.

Having no further business to conduct, the EAC general meeting adjourned at approximately 11:30 a.m. to reconvene in closed session at 1:00 p.m.

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Cheryl Gerhardt, CPA, Chair  
Enforcement Advisory Committee

Prepared by: Allison Nightingale, Enforcement Secretary



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**CBA Item XI.B.2**  
March 21-22, 2013

## **Proposed Responses to NASBA Focus Questions**

**Presented By:** Kari O'Connor, Board Relations Analyst

**Date:** February 15, 2013

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### **Purpose of the Item**

The purpose of this agenda item is to provide proposed responses on behalf of the California Board of Accountancy (CBA) to the National Association of State Boards of Accountancy (NASBA) regarding practice and regulatory issues impacting the accountancy profession. **(Attachment)**

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

The CBA will be requested to either approve, or direct staff to make changes to, the proposed responses.

### **Background**

Attached for your information are draft responses to NASBA Regional Directors' Focus Questions, which were issued on February 7, 2013. These responses have been prepared for Donald F. Aubrey, Pacific Regional Director, and are due to Mr. Aubrey by April 8, 2013.

### **Comments**

Staff has been informed that the quarterly Focus Questions are used to help NASBA regional directors stay apprised of each state's policies and procedures, and to see where improvements or adjustments might be made. The eight regional directors review the states' answers and then present their findings to NASBA.

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

This item does not have a fiscal/economic impact.

### **Recommendation**

These draft responses to the Focus Questions were prepared by CBA staff from the Enforcement, Licensing, and Administration Divisions.

### **Attachment**

NASBA Quarterly Focus Questions

**NATIONAL ASSOCIATION OF STATE BOARDS OF ACCOUNTANCY, INC.**

**MEMORANDUM**

February 7, 2013

**To:** State Board Chairs, Members and Executive Directors  
**From:** Jefferson Chickering - Chair, Committee on Relations with Member Boards  
**Re:** Focus Questions

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As Chair of the 2012-13 Committee on Relations with Member Boards, I would like to thank you for your assistance with our past Focus Questions. Your continued support helps keep NASBA an organization that responds to its Member Boards. With this set of Focus Questions, we hope to receive more helpful information from your Board.

I hope your Board is making plans to have its representatives attend the Executive Directors Conference and State Board Legal Counsel Conference, March 3-6, in Tucson, AZ. In the meantime, please do not hesitate to call your Regional Director to discuss the following questions or any other issues you feel NASBA should consider. We look forward to hearing from you.

Sincerely,

*Jeff Chickering*

**Central Director** – Douglas W. Skiles Phone: 308-345-5100 dskiles@msl-cpa.com

*Iowa, Kansas, Minnesota, Missouri, Nebraska, North Dakota, South Dakota*

**Great Lakes Director** – Kim L. Tredinnick Phone: 608-240-2318 kim.tredinnick@bakertilly.com

*Illinois, Indiana, Michigan, Ohio, Pennsylvania, Wisconsin*

**Middle Atlantic Director** – Bucky Glover Phone: 704-283-8189 bglover@gotopotter.com

*DC, Delaware, Maryland, North Carolina, South Carolina, Virginia, West Virginia*

**Mountain Director** – Karen F. Turner Phone: 970-351-1216 karen.turner@unco.edu

*Colorado, Idaho, Montana, Nevada, Utah, Wyoming*

**Northeast Director** – Jefferson M. Chickering Phone: 603-620-1961 jeffchickering@msn.com

*Conn., Maine, Mass., New Hampshire, New Jersey, New York, Rhode Island, Vermont*

**Pacific Director** – Donald F. Aubrey Phone: 206-369-1141 don@rebarccpa.com

*Alaska, Arizona, California, CNMI, Guam, Hawaii, Oregon, Washington*

**Southeast Director** – Jimmy E. Burkes Phone: 601-326-7118 jburkes@hrbccpa.com

*Alabama, Florida, Georgia, Kentucky, Mississippi, Puerto Rico, Tennessee, Virgin Islands*

**Southwest Director** – Janice L. Gray Phone: 405-360-5533 ext.103 janiceg@cpagray.com

*Arkansas, Louisiana, New Mexico, Oklahoma, Texas*

## REGIONAL DIRECTORS' FOCUS QUESTIONS

*The input received from our focus questions is reviewed by all members of NASBA's Board of Directors, committee chairs and executive staff and used to guide their actions. We encourage Executive Directors to place the following questions early on the agenda of their next board meeting to allow for sufficient time for discussion. **Please send your Board's responses to your Regional Director by April 8, 2013.** Use additional space for your responses if needed.*

**JURISDICTION** California Board of Accountancy (CBA)      **DATE** February 15, 2013

**NAME OF PERSON SUBMITTING FORM** Kari O'Connor

### **1- What has your Board done to ensure a high percentage of CPE compliance?**

To ensure a high percentage of compliance, at the time of license renewal, licensees must provide a detailed list of all continuing education (CE) courses completed in fulfillment of the license renewal requirements. Staff then perform a 100 percent review of the application to ensure licensees complete all required CE in the appropriate subject areas. Licensees found to be deficient are subsequently required to rectify any deficiency and provide proof of compliance. Additionally, the CBA employs a CE Audit program that requires a random group of licensees, per month, to submit documentation (generally certificates of completion) that they have satisfied the CE requirements for license renewal.

### **2- Should NASBA urge universities to put a CPA track in their programs, one offering specific classes focused on subject areas needed to pass the Uniform CPA Examination? Is there an outstanding model in your state?**

The CBA has not considered this issue. There are; however, numerous review courses available to individuals that focus exclusively on providing instruction for passing the Uniform CPA Exam. With these in place, faculty at the various colleges/universities should be tasked to develop curriculum based on the needs of the students and institution.

### **3- One state has considered requiring a forensic accountant to have a private investigator's license. Has your state established/considered a similar requirement?**

The CBA does not specifically license forensic accountants and has not considered a similar requirement of requiring them to have a private investigator's license. Anyone holding out to the public as an "accountant" in California needs to be licensed as a CPA or add a disclaimer stating that they are not licensed by the CBA.

### **4- What is happening in your jurisdiction that is important for other State Boards and NASBA to know?**

California's version of mobility goes into effect July 1, 2013. Additionally, effective January 1, 2014, there will be a 150 semester unit requirement to obtain CPA licensure. Also, the CBA added a new regulation requiring criminal background checks for all licensees who have not previously submitted fingerprints as a conditions of licensure, or for whom no electronic record of the licensee's fingerprints exists within the California Department of Justice's criminal offender record identification database. This background check is a condition of license renewal after December 31, 2013, and the CBA sees this requirement as an important added element for the protection of consumers.

**5- Are there any ways in which NASBA can assist your Board at the present time?**

As reported to NASBA in prior Focus Questions submissions, effective January 1, 2014, the CBA will transition to a 150 semester unit requirement as the sole pathway to CPA licensure. The CBA has been actively spreading the message about this transition, including establishing a webpage specific to the new educational requirements and conducting various seminars and Facebook events. The CBA recognizes that many of the licensees that eventually apply for initial licensure in California have obtained all or part of their education outside of California. With NASBA's ability to spread a message nationally, the CBA would appreciate any outreach that NASBA could provide informing various students and faculty at out-of-state colleges/universities about the impending changes and directing these individuals to the CBA website.

Additionally, while the new practice privilege provisions set to take effect on July 1, 2013 will bring California closer in line with mobility provisions found nationally, similar to other states, there continues to exist various nuances which out-of-state licensees must be mindful of. The CBA would appreciate NASBA's assistance in directing out-of-state CPAs to our website. This will help out-of-state CPAs take necessary steps to ensure they understand if they have certain reporting requirements (either pre- or post practice) and whether certain services must be performed through an accounting firm registered by the CBA.

**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):



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**CBA Item XII.C.**  
March 21-22, 2013

### **Press Release Focus**

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

**Date:** March 6, 2013

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

The purpose of this agenda item is to provide suggestions for an appropriate focus for the press release to be issued following each California Board of Accountancy (CBA) meeting. This is a dynamic analysis based on the activities of each CBA meeting.

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

No specific action is required on this agenda item.

#### **Background**

There have been 11 press releases since the January 2013 CBA meeting; one post-meeting release focused on the temporary fee reduction, one release offering tips on selecting a paid tax preparer, and nine enforcement action releases. In addition, a press advisory notifying the media of the March meeting is scheduled to be sent out March 18, 2013.

#### **Comments**

None.

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

None.

#### **Recommendation**

Staff recommendation will be made at the time of this presentation.

#### **Attachments**

1. Temporary Fee Reduction Press Release
2. Tips for Selecting a Paid Tax Preparer Press Release
3. Enforcement Action Press Releases



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## **NEWS RELEASE**

### **CALIFORNIA BOARD OF ACCOUNTANCY TAKES STEPS TOWARD TEMPORARY FEE REDUCTION**

(Sacramento, CA) – The California Board of Accountancy has taken the first steps toward a temporary reduction in exam, licensing and renewal fees for a two-year period beginning July 1, 2014 and ending June 30, 2016. At its January 24-25 meeting in San Diego, the CBA voted to reduce fees for the second time in three years. The new proposal must still be approved through the state’s regulatory process.

“The CBA is fiscally sound and it just makes sense to temporarily roll back fees as we are able,” said CBA President Leslie J. LaManna, CPA. “The temporary reduction in fees will not impact CBA programs or activities,” she added.

The CBA projects licensees and prospective licensees will realize a total savings of more than \$10 million over the two year lifetime of the temporary fee reduction. Under the new proposed rules, fees for the initial permit to practice as a partnership, corporation, or certified public accountant as well a renewal fees for existing licenses will be reduced from \$120 to \$50. The proposed fee structure also provides for the following:

- The application fee for the computer-based Uniform CPA Examination for issuance of the Authorization to Test to first-time applicants to be reduced from \$100 to \$50;
- The application fee for the computer-based Uniform CPA Examination for issuance of the Authorization to Test to repeat applicants to be reduced from \$50 to \$25;
- The application fee for issuance of a CPA certificate to be reduced from \$250 to \$50; and,
- The application fee for registration as a partnership or as a corporation, including registering under a new name, to be reduced from \$150 to \$30.

The CBA will revisit the fee structure during the two year period to determine whether the lower fee levels are adequate to maintain approximately three months in reserve going forward.

*Created by statute in 1901, the CBA's mandate ensures protection of the public shall be the highest priority for the California Board of Accountancy in exercising its licensing, regulatory, and disciplinary functions. The CBA currently regulates more than 86,000 licensees, the largest group of licensed accounting professionals in the nation, including individuals, partnerships, and corporations.*

*More information about the California Board of Accountancy is available at*  
[www.cba.ca.gov](http://www.cba.ca.gov)

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## Attachment 2

### NEWS RELEASE

March 4, 2013

Contact: Lauren Hersh  
(916) 561-1789

### NEED A TAX PREPARER? KEEP CALM AND CHECK THE LICENSE

(Sacramento, CA) –Many people turn to professionals when it's time to prepare their tax return. How do you know if a tax preparer is qualified? The California Board of Accountancy offers the following tips for selecting and working with a paid tax preparer. Remember, even if someone else prepares your return, you are legally responsible for its contents.

- **Check the preparer's qualifications.** In California, only licensed CPAs, Enrolled Agents, attorneys, or registered tax preparer are legally authorized to prepare your return for a fee, and not all can offer the same services. CPAs can provide a range of accounting services, including auditing; estate planning; financial accounting, analysis, and planning; forensic accounting and litigation support; management consulting; and tax planning and preparation. Establishing a relationship with a CPA you can trust has added benefits long after your taxes are filed.
- **Check the preparer's history.** If you are selecting a CPA, check the CBA License Lookup <http://www.dca.ca.gov/cba/lookup.shtml> to make certain he or she has a current and active CPA license. This is where you can also check for disciplinary actions. If choosing an attorney, information is available at the California Bar Association [www.calbar.org](http://www.calbar.org). For information on Enrolled Agents, visit the California Society of Enrolled Agents [www.csea.org](http://www.csea.org). Information on registered tax preparers is available at the California Tax Education Council [ctec.org](http://ctec.org). Also check for the Preparer Tax Identification Number (PTIN). All paid tax return preparers are required to have a PTIN.
- **Ask about fees up front.** Be wary of preparers who claim they can get you larger refunds than other tax preparers, or who base their fee on a percentage of your refund. Reputable tax preparers will generally arrive at similar results.
- **Make sure the preparer is accessible.** Where will your tax preparer be after April 15? Make certain you will be able to contact the tax preparer after you file your return, in the event there are questions about your return.

- **Never sign a blank return.** If a tax preparer asks you to sign a blank tax form, take your business elsewhere. You are responsible for the contents of your tax return. Also, always make sure any refund due is sent to you or deposited into an account in your name. Never deposit your refund into a preparer's bank account.
- **Review the entire return before signing.** Before you sign your tax return, review it and ask questions. Be certain you understand everything and are comfortable with the accuracy of the return before you sign it.
- **Get a copy of your tax return.** The preparer must give you a copy of the return. Make sure the preparer signs the return and includes their PTIN, as required by law.

Most tax preparers are trustworthy professionals who provide valuable services to taxpayers. However, if you have questions or concerns about a CPA, please contact the CBA Enforcement Division at [enforcementinfo@cba.ca.gov](mailto:enforcementinfo@cba.ca.gov) or (916) 561-1729.

###

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Subscribe to CBA [E-News](#) to receive links to the latest digital edition of UPDATE and the latest information on CBA programs and activities.



**California Board of Accountancy  
Enforcement Action News Release**

**Attachment 3**

Sent to [Hottip@theacorn.com](mailto:Hottip@theacorn.com) (The Acorn); AgouraHillsPatch.com and [susan.pascal@patch.com](mailto:susan.pascal@patch.com) (Agoura Hills Patch.com)

**Nicole Rae Kaplan, Agoura Hills, CA (CPA 70888)**; has been disciplined by the California Board of Accountancy. Please utilize the attached links to the California Board of Accountancy's Web page to access details of these enforcement actions.

[http://www.dca.ca.gov/cba/discipline/decisions/index\\_k.shtml#885](http://www.dca.ca.gov/cba/discipline/decisions/index_k.shtml#885)

Please contact Patti Bowers, Executive Officer, by telephone at (916) 561-1718 or by e-mail at [pbowers@cba.ca.gov](mailto:pbowers@cba.ca.gov) should you have any questions regarding these enforcement actions.

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Sent to [john.canalis@latimes.com](mailto:john.canalis@latimes.com) and [jamie.rowe@latimes.com](mailto:jamie.rowe@latimes.com) (Los Angeles Times), [business@ocregister.com](mailto:business@ocregister.com) (Orange County Register) and [glendora.patch.com](mailto:glendora.patch.com) <http://glendora.patch.com> (Glendora Patch) on March 4, 2013

**KMJ/Corbin & Company, LLP Costa Mesa, CA (PAR 6605); Anthony Price, Huntington Beach and Kendall Glade Merkley, Glendora, CA (CPA 53860)** have been disciplined by the California Board of Accountancy. Please utilize the attached links to the California Board of Accountancy's Web page to access details of these enforcement actions.

[http://www.dca.ca.gov/cba/discipline/decisions/index\\_k.shtml#1011](http://www.dca.ca.gov/cba/discipline/decisions/index_k.shtml#1011)

[http://www.dca.ca.gov/cba/discipline/decisions/index\\_p.shtml#1013](http://www.dca.ca.gov/cba/discipline/decisions/index_p.shtml#1013)

[http://www.dca.ca.gov/cba/discipline/decisions/index\\_m.shtml#1012](http://www.dca.ca.gov/cba/discipline/decisions/index_m.shtml#1012)

Please contact Patti Bowers, Executive Officer, by telephone at (916) 561-1718 or by e-mail at [pbowers@cba.ca.gov](mailto:pbowers@cba.ca.gov) should you have any questions regarding these enforcement actions.

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Sent to [news.tribune@sgvn.com](mailto:news.tribune@sgvn.com) (San Gabriel Valley News), <http://diamondbar-walnut.patch.com/news> (Diamond Bar Patch.com) [mike.brossart@inlandnewspapers.com](mailto:mike.brossart@inlandnewspapers.com) (Inland Valley Newspapers) and

**Wingto Aldous Ng, Diamond Bar, CA CPA (CPA 63601); David John Lightfoot, Claremont, CA (CPA 63828); Marvin Louis Nicholls, City of Industry, CA (CPA 20478)** and have been disciplined by the California Board of Accountancy. Please utilize the attached links to the California Board of Accountancy's Web page to access details of these enforcement actions.

[http://www.dca.ca.gov/cba/discipline/decisions/index\\_n.shtml#955](http://www.dca.ca.gov/cba/discipline/decisions/index_n.shtml#955)

**California Board of Accountancy  
Enforcement Action News Release**

[http://www.dca.ca.gov/cba/discipline/decisions/index\\_l.shtml#889](http://www.dca.ca.gov/cba/discipline/decisions/index_l.shtml#889)  
[http://www.dca.ca.gov/cba/discipline/decisions/index\\_n.shtml#957](http://www.dca.ca.gov/cba/discipline/decisions/index_n.shtml#957)

Please contact Patti Bowers, Executive Officer, by telephone at (916) 561-1718 or by e-mail at [pbowers@cba.ca.gov](mailto:pbowers@cba.ca.gov) should you have any questions regarding these enforcement actions.

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**Sent to [llgreen@visaliatimesdelta.com](mailto:llgreen@visaliatimesdelta.com) (Linda Green, Visalia Times Delta)**

**Mark Allan Frantz, Visalia, CA (CPA 72757)** has been disciplined by the California Board of Accountancy. Please utilize the attached links to the California Board of Accountancy's Web page to access details of these enforcement actions.

[http://www.dca.ca.gov/cba/discipline/decisions/index\\_f.shtml#926](http://www.dca.ca.gov/cba/discipline/decisions/index_f.shtml#926)

Please contact Patti Bowers, Executive Officer, by telephone at (916) 561-1718 or by e-mail at [pbowers@cba.ca.gov](mailto:pbowers@cba.ca.gov) should you have any questions regarding these enforcement actions.

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