



DEPARTMENT OF CONSUMER AFFAIRS
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**CALIFORNIA BOARD OF ACCOUNTANCY (CBA)
PUBLIC MEETING NOTICE FOR THE TASKFORCE TO EXAMINE EXPERIENCE
FOR CPA LICENSURE (TASKFORCE), LEGISLATIVE COMMITTEE (LC), AND CBA
MEETINGS**

DATE: Wednesday, July 24, 2013

TASKFORCE MEETING

TIME: 1:30 p.m.

DATE: Thursday, July 25, 2013

COMMITTEE MEETING (LC)

TIME: 9:00 a.m.

CBA MEETING

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

PLACE: Hyatt Regency Sacramento
1209 L Street
Sacramento, CA 95814
Telephone (916) 443-1234
Fax: (916) 321-3779

Enclosed for your information is a copy of the agendas for the Taskforce, LC and CBA meetings on July 24-25, 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
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 September 26-27, 2013 in Southern California.

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, 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)
 TASKFORCE TO EXAMINE EXPERIENCE FOR CPA LICENSURE (Taskforce)**

**TASKFORCE
 AGENDA**

**Wednesday, July 24, 2013
 1:30 p.m.**

**Hyatt Regency Sacramento
 1209 L Street
 Sacramento, CA 95814
 Telephone: (916) 443-1234
 Facsimile: (916) 321-3779**

	<u>CBA Item #</u>
Roll Call and Call to Order (Manuel Ramirez, Chair).	
I. Draft Minutes of the May 23, 2013 Taskforce Meeting (Manuel Ramirez).	IX.C.
II. Overview of Information Related to State Boards of Accountancy Experience Requirements for CPA Licensure and Available Consumer Information Regarding Authorized Services Provided by CPAs (Kathryn Kay, CBA Staff).	VIII.A.2.
III. Overview of CBA-Related Licensure Information Regarding California CPA Applicant Qualifying Experience Earned in Public and Non-Public Accounting and Areas of Practice, and Enforcement Statistical Information (Kathryn Kay).	VIII.A.3.
IV. Overview of Post-CPA Licensure Designations and Affiliations and CBA Post-Licensure Requirements to Perform Certain Accounting and Auditing Services (Kathryn Kay).	VIII.A.4
V. Discussion on Modifications to the Experience Requirement for CPA Licensure Mandated Pursuant to Business and Professions Code Sections 5092, 5093, and 5095 and Title 16 California Code of Regulations Sections 12 and 12.5 (Dominic Franzella, Licensing Chief).	VIII.A.5.
VI. Bonnie Moore Case Decision and Results of Legal Cases Research (Kristy Shellans, Legal Counsel).	VIII.A.6.

VII. Agenda Items for the Next Meeting.

VIII. Public Comments.*

Adjournment.

Action may be taken on any item on the agenda. In accordance with the Bagley-Keene Open Meetings Act, all meetings of the Taskforce 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 Taskforce prior to the Taskforce taking any action on said item. Members of the public will be provided appropriate opportunities to comment on any issue before the Taskforce. Individuals may appear before the Taskforce to discuss items not on the agenda; however, the Taskforce 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 Taskforce may be attending the meeting. However, if a majority of members of the full board are present at the Taskforce meeting, members who are not Taskforce members may attend the meeting only as observers.



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

**LC MEETING
 AGENDA**

**Thursday, July 25, 2013
 9:00 a.m.**

**Hyatt Regency Sacramento
 1209 L Street
 Sacramento, CA 95814
 Telephone: (916) 443-1234
 Fax: (916) 321-3779**

	<u>CBA Item #</u>
Roll Call and Call to Order (Larry Kaplan, Chair) .	
I. Approve Minutes of the May 23, 2013 LC Meeting (Larry Kaplan) .	IX.B.
II. Update on Legislation Which the CBA Has Taken a Position (AB 186, AB 258, AB 291, AB 376, AB 1057, AB 1151, AB 1420, SB 176, SB 305, SB 822, and SB 823) (Andrew Breece, CBA Staff) .	VIII.B.2.
III. Additional Legislation Impacting the CBA Identified by Staff After the Posting of the Meeting Notice.	VIII.B.3.
IV. Public Comments*	
V. 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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**DEPARTMENT OF CONSUMER AFFAIRS (DCA)
CALIFORNIA BOARD OF ACCOUNTANCY (CBA)**

**CBA MEETING
AGENDA**

**July 25, 2013
9:30 a.m. – 5:00 p.m.**

**Hyatt Regency Sacramento
1209 L Street
Sacramento, CA 95814
Telephone (916) 443-1234
Fax: (916) 321-3779**

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.

- 9:30 a.m.** Roll Call and Call to Order (**Leslie LaManna, President**).
- I. Report of the President (**Leslie LaManna**).
 - A. DCA Director's Report (**DCA Representative**).
 - B. Project to Review and Possibly Expand the Role of CBA Committee Liaisons.
 - II. Report of the Vice President (**Michael Savoy**).
 - A. Recommendations for Reappointments to the Enforcement Advisory Committee (EAC).

- B. Recommendations for Appointment(s)/Reappointment(s) to the Qualifications Committee (QC).
 - C. Recommendations for Appointment to the Peer Review Oversight Committee (PROC) Vice Chair.
- III. Report of the Secretary/Treasurer (**K.T. Leung**).
- A. Discussion of Governor's Budget.
- IV. Report of the Executive Officer (EO) (**Patti Bowers**).
- A. Update on Staffing.
 - B. Update on CBA Working Conference.
 - C. Update on CBA 2013-2015 Communications and Outreach Plan (Written Report Only).
- V. Report of the Licensing Chief (**Dominic Franzella**).
- A. Report on Licensing Division Activity.
 - B. Planned Implementation for License Renewal-Related Changes Effective January 1, 2014.
- VI. Regulations (**Matthew Stanley, CBA Staff**).
- A. Regulation Hearing Regarding 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 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.
- VII. Report of the Enforcement Chief (**Rafael Ixta**).
- A. Enforcement Activity Report.
- VIII. Committee and Task Force Reports.
- A. Taskforce (**Manuel Ramirez, Chair**).
 - 1. Report of the July 24, 2013 Taskforce Meeting.

**Time Certain
1:00 p.m.**

2. Overview of Information Related to State Boards of Accountancy Experience Requirements for CPA Licensure and Available Consumer Information Regarding Authorized Services Provided by CPAs.
3. Overview of CBA-Related Licensure Information Regarding CPA Applicant Qualifying Experience Earned in Public and Non-Public Accounting and Areas of Practice, and Enforcement Statistical Information.
4. Overview of Post-CPA Licensure Specializations and Affiliations and CBA Post-Licensure Requirements to Perform Certain Accounting and Auditing Services.
5. Discussion on Modifications to the Experience Requirement for CPA Licensure Mandated Pursuant to Business and Professions Code Sections 5092, 5093, and 5095 and Title 16 California Code of Regulations Sections 12 and 12.5.
6. Bonnie Moore Case Decision and Results of Legal Cases Research.

B. Legislative Committee (LC) (Larry Kaplan, Chair).

1. Report of the July 25, 2013 LC Meeting.
2. Update on Legislation Which the CBA Has Taken a Position (AB 186, AB 258, AB 291, AB 376, AB 1057, AB 1151, AB 1420, SB 176, SB 305, SB 822, and SB 823).
3. Additional Legislation Impacting the CBA Identified by Staff After the Posting of the Meeting Notice.

C. Peer Review Oversight Committee (PROC) (Robert Lee, Vice Chair).

1. Report of the June 21, 2013 PROC Meeting.

D. Enforcement Advisory Committee (EAC) (Cheryl Gerhardt, Chair).

1. Report of the July 11, 2013 EAC Meeting.

E. Qualifications Committee (QC) (Maurice Eckley, Chair).

No Report.

IX. Acceptance of Minutes

- A. Draft Minutes of the May 23-24, 2013 CBA Meeting.
 - B. Minutes of the May 23, 2013 LC Meeting.
 - C. Minutes of the May 23, 2013 Taskforce Meeting.
 - D. Minutes of the February 22, 2013 PROC Meeting.
- X. 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 Taskforce
(Patti Bowers).
 - b. Board Relevance & Effectiveness Committee
(Marshal Oldman).
- XI. Closing Business.
- A. Public Comments.*
 - B. Agenda Items for Future CBA Meetings.
 - C. Press Release Focus **(Deanne Pearce, Assistant EO)**.
 - Recent Press Releases.
- XII. Closed Session. Pursuant to Government Code Section 11126(c)(3), the CBA Will Convene Into Closed Session to Deliberate on Disciplinary Matters (Stipulations, Default Decisions and Proposed Decisions).
- 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 CBA President 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. 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 II.A.
July 25, 2013

**Recommendation For Reappointments to the
Enforcement Advisory Committee (EAC)**

Presented by: Michael Savoy, Vice President
Date: June 17, 2013

Purpose of the Item

The purpose of this agenda item is to recommend that Mervyn McCulloch, CPA (**Attachment 1**) and Jeffrey De Lyser, CPA (**Attachment 2**) be reappointed as members to the California Board of Accountancy (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's 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 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 skills, and participation.

Prior to making a decision to recommend Mr. McCulloch and Mr. De Lyser as members of the EAC, I performed all the steps previously mentioned. I additionally reviewed their

Recommendations For Reappointments to the Enforcement Advisory Committee (EAC)

Page 2 of 2

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 3**.

I believe Mr. McCulloch and Mr. De Lyser have exhibited a high level of professionalism during the performance of their duties and demonstrated that they have the skills and knowledge to serve on the EAC, which will allow the EAC to assist the CBA with its Enforcement Program.

Fiscal/Economic Impact

None.

Recommendation

Based on the information above, and in consultation with Cheryl Gerhardt, Chair of the EAC, I recommend that Mr. Mervyn McCulloch and Mr. Jeffrey De Lyser be reappointed to the EAC.

Attachments

1. Curriculum Vitae of Mervyn McCulloch, CPA
2. Curriculum Vitae of Jeffrey De Lyser, CPA
3. Skill Matrix



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CBA Item II.C.
July 25, 2013

**Recommendations For Appointment to the
Peer Review Oversight Committee (PROC) Vice Chair**

Presented by: Michael Savoy, Vice President
Date: June 18, 2013

Purpose of the Item

The purpose of this agenda item is to recommend Sherry McCoy, CPA (**Attachment**) be appointed as Vice Chair of the California Board of Accountancy (CBA) Peer Review Oversight Committee (PROC), effective January 1, 2014.

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 Program Provider, collects and analyzes statistical monitoring and reporting data from each Peer Review Provider on an annual basis, and prepares an Annual Report to the CBA regarding the results of its oversight.

Comments

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

I also confer with the CBA'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 or are being recommended for a leadership role on the committee, I review prior attendance records and review any evaluations that may have been completed by fellow committee members. Evaluations are completed annually by all committee members giving feedback regarding the Chair and Vice Chair's performance. The evaluation requests feedback in the areas of

Recommendations For Appointment to the Peer Review Oversight (PROC) Vice Chair

Page 2 of 2

interpersonal skills, communications, leadership, attendance, preparedness, technical, and participation.

Prior to making a decision to recommend Ms. McCoy as Vice Chair of the PROC, I performed all the steps previously mentioned. I believe Ms. McCoy has exhibited a high level of professionalism during the performance of her duties and demonstrated that she has the skills and knowledge to serve in a leadership capacity on the PROC which will allow the PROC to continue to perform its mandated activities and assist the CBA with its oversight of the Peer Review Program. I recommend that the appointment of Ms. McCoy as PROC Vice Chair be effective January 1, 2014 to allow time for further mentoring and training of the current Vice Chair, Robert Lee.

Fiscal/Economic Impact

None.

Recommendation

Based on the information above, and in consultation with Nancy Corrigan, Chair of the PROC, I recommend that Ms. McCoy be appointed as Vice Chair of the PROC, effective January 1, 2014.

Attachment

Curriculum Vitae of Sherry McCoy, CPA

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CBA Item IV.C.
July 25, 2013

Update on CBA 2013-2015 Communications and Outreach Plan

Presented by: Lauren Hersh, Information & Planning Manager

Date: July 10, 2013

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

Consumer Outreach

CBA staff participated in the Financial Literacy Fair at the State Capitol in April, providing the CBA Consumer Assistance Booklet and Peer Review brochures. The fair was hosted by State Controller John Chiang and California State Assemblymember Roger Dickinson.

Social media

CBA's social media efforts are being refined to follow best practices in each social media platform that the CBA has a presence. At this writing, the CBA has approximately 2,250 fans on Facebook and more than 1,100 followers on Twitter. While steady, modest growth continues in the numbers of fans and followers, engagement with these audiences has been improving rapidly and has increased 94.62 percent since the last report in May. Staff believes this is a result of employing new social media best practices. The CBA is also attracting more 18-24 year-old followers on Twitter, which may mirror some recent social media studies suggesting this age group is shifting away from Facebook to Twitter.

While approximately 50 percent of our Facebook fans are still in the 25-35 year-old range, we are seeing some growth in the 35-44 and 45-54 year-old groups. "Throwback

Update on CBA 2013-2015 Communications and Outreach Plan

Page 2 of 3

Thursday,” in which we share a bit of accounting nostalgia in photos each Thursday, has become a very popular feature on the CBA Facebook page. Fans often share their own experiences, and spark conversations about everything from ledger paper to the ten-key. Notification of exam score release continues to be a popular item for exam candidates, and usually sparks conversation about exam experiences, successes and planned celebrations.

Press Releases

Press releases and advisories are now being shared via social media as well as through traditional distribution methods. In addition to reaching reporters who follow us on Twitter, it provides the public with another opportunity to access information directly from the CBA.

Press Releases	2011	2012	YTD
Press advisories & topical news releases	19	19	12
Enforcement press releases	31	35	45
Total	50	54	57

E-News

E-News subscriptions have increased by more than 600 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. The largest increase is in Examination Applicants with more than 450 new subscriptions, followed by California Licensees with 137 new subscriptions.

List Name	External	Internal	Total
California Licensee	8,875	50	8,925
Consumer Interest	4,122	54	4,176
Examination Applicant	2,685	41	2,726
Licensing Applicant	3,202	45	3,247
Out-of-State Licensee	2,121	43	2,164
Statutory/Regulatory	7,126	58	7,184
CBA Meeting Info & Agenda Materials	3,284	36	3,320
UPDATE Publication	6,579	18	6,597
Total subscriptions	37,363	343	38,339

Update on CBA 2013-2015 Communications and Outreach Plan

Page 3 of 3

UPDATE Publication

The Spring/Summer 2013 edition of UPDATE was posted to the CBA website on June 14, 2013. At this writing, staff is awaiting a mail-out date from the Office of State Printing. Planning for the Fall edition will soon be underway. If members have ideas for articles they would like to share or wish to write an article for the Fall edition of UPDATE, please contact Lauren Hersh at (916) 571-1789 or lauren.hersh@cba.ca.gov.

Fiscal/Economic Impact Considerations

None.

Recommendation

Staff has no recommendation on this item.

Attachment

Letter from Assemblymember Roger Dickinson

STATE CAPITOL
P.O. BOX 942849
SACRAMENTO, CA 94249-0007
(916) 319-2007
FAX (916) 319-2107

DISTRICT OFFICE
915 L STREET, SUITE #110
SACRAMENTO, CA 95814
(916) 324-4676
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Assembly California Legislature



ROGER DICKINSON
ASSEMBLY MEMBER, SEVENTH DISTRICT

COMMITTEES
CHAIR, BANKING AND FINANCE
BUDGET
JUDICIARY
NATURAL RESOURCES

SUBCOMMITTEES
BUDGET SUBCOMMITTEE #1,
STATE ADMINISTRATION

SELECT COMMITTEE
DELINQUENCY PREVENTION AND
YOUTH DEVELOPMENT

Lauren Hershey
California Board of Accountancy
2000 Evergreen Street, Suite 250
Sacramento, CA 95815-3832

Dear Ms. Lauren Hershey,

I wanted to personally express my gratitude for your recent participation with the Financial Literacy Fair at the State Capitol hosted by our office and the office of State Controller John Chiang.

Assembly Concurrent Resolution 38 (2009) declared April as Financial Aid and Literacy Month to raise public awareness about the need for increased financial literacy.

In honor of Financial Aid and Literacy Month, I hosted a Financial Literacy Series, connecting the community with resources that provide financial, investment, mortgage, and bankruptcy education.

As California moves forward in prosperity and economic growth, we recognize the hard work of local financial education leaders such as yourselves, who provide financial education and solutions to individuals, businesses, government and non-profit organizations in our community. California will go far if we instill sound financial habits in all our citizens.

On behalf of the constituents of the seventh Assembly district, I thank you for your time and wish you continued success for the remainder of 2013.

Sincerely,

ROGER DICKINSON
California State Assemblymember, Seventh District

RD:sl





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CBA Item V.A.
July 25, 2013

Report on Licensing Division Activity

Presented by: Dominic Franzella, Chief, Licensing Division

Date: July 10, 2013

Purpose of the Item

The purpose of this agenda item is to provide California Board of Accountancy (CBA) members a summary of recent activity in the CBA Licensing Division.

Action(s) Needed

No specific action is required.

Background

A report on Licensing Division activity is provided at each CBA meeting. The report provides CBA members with statistical information and an overview of recent activity in the CBA Licensing Division.

Comments

The report on Licensing Division activity has historically provided CBA members a rolling three-month snapshot of the workload and general processing timeframes in each of the four licensing program areas. In order to provide members a fuller picture of Licensing Division activities the report has been redesigned to reflect three fiscal years of statistical data while still providing a narrative report highlighting recent activity within each program area. The report has also undergone a visual redesign to provide uniformity in data reporting across all program areas.

Fiscal/Economic Impact Considerations

None.

Recommendation

Staff has no recommendation on this item.

Attachments

Licensing Division Activity Report

California Board of Accountancy Licensing Division Activity Report

Licensee Population

Type of License	As of June 30, 2011	As of June 30, 2012	As of June 30, 2013
CPA	82,232	84,712	87,015
PA	143	122	105
Partnership	1,496	1,414	1,431
Corporation	3,796	3,718	3,835

Customer Service

Telephone Calls Received	FY 2010/11	FY 2011/12	FY 2012/13
Examination Unit	26,239	20,511	22,610
Initial Licensing Unit	17,055	19,399	24,006
License Renewal/Continuing Competency Unit	19,261	21,579	20,958
Practice Privilege Unit	1,124	882	921

Emails Received	FY 2010/11	FY 2011/12	FY 2012/13
Examination Unit	12,054	10,042	11,551
Initial Licensing Unit	7,057	7,913	9,670
License Renewal/Continuing Competency Unit	7,243	8,192	9,601
Practice Privilege Unit	749	1,516	583

California Board of Accountancy Licensing Division Activity Report

Examination Unit

- The Examination Unit has hired a new seasonal clerk to assist with telephone calls, intake of transcripts and foreign education evaluations, and processing repeat sitter examination applications, all of which have steadily increased since the beginning of 2013. The increased volume is expected to be temporary and is surmised to be due to individuals attempting to pass all four parts of the Uniform Certified Public Accountant (CPA) Exam prior to the new educational requirements for licensure taking effect on January 1, 2014.
- In 1923 the American Institute of Certified Public Accountants (AICPA) established the Elijah Watt Sells Award to recognize outstanding performance on the CPA Exam. Staff were recently informed that a California candidate was among the 39 individuals to receive this award for having obtained an average score above 95.5 across all four sections of the CPA Exam on the first attempt during the 2012 testing year.
- As reflected in the Uniform CPA Examination Special Requests table on the next page, staff recently began tracking the workload and average processing timeframes for three types of requests – conditional credit and notice to schedule extensions, educational qualification reconsiderations, and special accommodations.
 - Conditional credit and Notice to Schedule extensions are applicable when an individual is prevented from sitting for an unpassed section of the CPA Exam due to one of several reasons listed in Sections 7.1(e) and 8.1(e) of the CBA Regulations.
 - Educational qualification reconsiderations refer to individuals who believe CBA staff made an error in reviewing his/her transcripts and/or foreign education evaluation. Staff rely primarily on the official college or university transcripts when determining an individual's qualifications to sit for the CPA Exam which, out of necessity, include abbreviated course titles. When an individual believes an accounting or business-related course has been overlooked, he/she will submit the course catalog description and/or syllabus providing the full course title and description of the course content for reconsideration.
 - Special accommodations are in accordance with the Americans with Disabilities Act and refer to any request for reasonable accommodation to take the CPA Exam due to a medical need and/or disability.

Uniform CPA Examination Applications	FY 2010/11	FY 2011/12	FY 2012/13
First-Time Sitter			
Total Received	7,109	7,243	7,175
Total Processed*	8,584	7,765	9,210
Average Days to Process	29	21	23
Repeat Sitter			
Total Received	16,803	17,606	18,584
Total Processed*	18,381	17,775	18,685
Average Days to Process	9	7	8

* The total number of applications processed is higher than the total number of applications received because many of the applications that are received in late May and June of each year are processed in July, which falls into the subsequent FY.

California Board of Accountancy Licensing Division Activity Report

Uniform CPA Examination Special Requests	FY 2010/11	FY 2011/12	FY 2012/13
Conditional Credit and Notice to Schedule Extensions*			
Total Received	--	--	114
Total Completed	--	--	104
Average Days to Process	--	--	16
Educational Qualification Reconsiderations*			
Total Received	--	--	40
Total Completed	--	--	37
Average Days to Process	--	--	20
Special Accommodation*			
Total Received	--	--	69
Total Completed	--	--	69
Average Days to Process	--	--	8

* These statistics are not available for FY 2010/11, FY 2011/12, or prior to January 1, 2013 for FY 2012/13.

Initial Licensing Unit

- Initial Licensing Unit (ILU) staff has been actively researching information to assist the Taskforce to Examine Experience for CPA Licensure (Taskforce) in its deliberations. The Taskforce will continue to meet in conjunction with regularly scheduled CBA meetings.
- Senate Bill 1405, pertaining to practice privilege, became operative on July 1, 2013. Included in the bill were provisions to register out-of-state accounting firms. ILU staff has begun developing internal processes for handling the new registration type.
- As part of the pending rulemaking file on continuing education (CE) modifications, the CBA took steps to amend the CE requirements for stale-dated experience and license reissuance. It is anticipated that the new regulations will take effect January 1, 2014. Management is preparing a training plan for ILU staff and an article regarding the new requirements will be planned for the fall edition of UPDATE.

Firm License Applications	FY 2010/11	FY 2011/12	FY 2012/13
Corporation			
Total Received	212	257	221
Total Processed	184	223	174
Average Days to Process	11	8	14

California Board of Accountancy Licensing Division Activity Report

Firm License Applications	FY 2010/11	FY 2011/12	FY 2012/13
Partnership			
Total Received	126	125	89
Total Processed	66	106	70
Average Days to Process	11	8	14

Individual License Applications	FY 2010/11	FY 2011/12	FY 2012/13
Certified Public Accountant			
Total Received	3,998	3,594	3,654
Total Processed	3,567	3,241	3,474
Average Days to Process	15	15	25
Method of Licensure			
Pathway 0*	14	12	4
Pathway 1 – attest	466	405	416
Pathway 1 – general	604	499	543
Pathway 2 – attest	919	795	756
Pathway 2 – general	1,564	1,530	1,755
Fictitious Name Permit			
Total Received	162	178	169
Total Processed	146	156	105
Average Days to Process	11	8	14

* Although uncommon, the CBA does have occasion to issue licenses under Pathway 0 due to the reissuance process.

License Renewal/Continuing Competency Unit

- The License Renewal/Continuing Competency (RCC) Unit is in the process of preparing a communication to licensees regarding license renewal-related changes that take effect January 1, 2014. In addition to addressing the modification to the Fraud CE requirement, the notification will also highlight the retroactive fingerprint and peer review requirements.
- The RCC Unit is revising the corporation, partnership, and CPA/PA license renewal applications to reflect the modification to the Fraud CE requirement, as well as the retroactive fingerprint and peer review requirements. The revised applications are undergoing internal review and will then proceed for legal review.
- Staff is actively working to develop implementation procedures for retired license status, which becomes effective July 1, 2014.

California Board of Accountancy Licensing Division Activity Report

License Renewal	FY 2010/11	FY 2011/12	FY 2012/13
Total Licenses Renewed			
Certified Public Accountant	35,704	38,329	38,334
Public Accountant	33	20	25
Corporation	616	653	579
Partnership	1,663	1,654	1,560

License Renewal	FY 2010/11	FY 2011/12	FY 2012/13
License Renewal Verification			
CPA/PA Applications Reviewed	31,336	44,749	36,927
Deficient Applications Identified	3,086	4,233	4,064
Compliance Responses Received	2,894	4,065	3,453
Outstanding Deficiencies	115	103	558
Enforcement Referrals	77	65	53

Practice Privilege

- Practice Privilege Unit staff has been working diligently over the past several months to prepare for the new practice privilege provisions that took effect on July 1, 2013. By collaborating the efforts of the Administrative, Enforcement, and Licensing Divisions, staff are confident that the transition to the new practice privilege program will be smooth.

Practice Privilege	FY 2010/11	FY 2011/12	FY 2012/13
Notifications Received			
Hardcopy Form	631	593	563
Electronic Submission	1,963	1,912	1,738
Disqualifying Conditions Reported			
Practice Rights Approved	34	31	20
Practice Rights Denied	0	2	0
Pending Review	0	0	0
Administrative Suspension Orders			
Notice of Intent to Suspend Issued	19	73*	42*
Administrative Suspension Order Issued	5	23	22

*These statistics are higher than previous fiscal years due to the implementation of monthly audits and 100 percent enforcement of timely fee payment.



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CBA Item V.B.
July 25, 2013

**Planned Implementation for License Renewal-Related Changes Effective
January 1, 2014**

Presented by: Dominic Franzella, Chief, Licensing Division
Date: June 10, 2013

Purpose of the Item

The purpose of this agenda item is to provide the California Board of Accountancy (CBA) with information on license renewal-related changes taking effect January 1, 2014.

Action(s) Needed

No specific action is required on this agenda item.

Background

Over the past two years the CBA has embarked on three separate rulemaking activities that will impact license renewal requirements. These changes involve retroactive fingerprint requirements, peer review reporting, and the Fraud continuing education (CE) requirement.

CBA Regulation section 37.5 will require the submission of fingerprints for a specified group of licensees. Licensees renewing in an active status who have not previously submitted fingerprints as a condition of licensure or for whom an electronic record of the licensee's fingerprints does not exist in the Department of Justice's (DOJ) criminal offender record identification database are now required to have fingerprints checked by both the DOJ and the Federal Bureau of Investigation by the licensee's renewal date that occurs after December 31, 2013.

The CBA amended CBA Regulation sections 45 and 52 to require all licensees to report whether they are subject to peer review as a condition of license renewal. This amended regulation also replaces the initial phase-in reporting dates of the peer review program with the requirement that a licensee report specific peer review information on the *Peer Review Reporting Form PR-1* (Rev. 1/12) (*Form PR-1*) at the time of renewal.

As part of its pending CE rulemaking package that amends various CE requirements, the CBA intends on broadening the scope of and reducing the hours required for Fraud CE. Licensees who must complete CE in Government Auditing or Accounting and

Planned Implementation for License Renewal-Related Changes Effective January 1, 2014

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Auditing CE are also required to complete a specified number of hours in Fraud CE. The proposed changes will now add the ability for licensees to complete CE in the prevention, detection and/or reporting of fraud affecting financial statements while reducing the required hours from eight to four.

Comments

To ensure a seamless transition, staff immediately began meeting to develop implementation plans for the forthcoming regulatory changes. Staff has designed the plans to assist licensees with compliance and ensuring staff receive the necessary training regarding the new requirements. Provided below are highlights of some of the activities staff are planning or have undertaken to aid in the transition.

Outreach Activities

In the near future, the CBA will initiate a mass mailing to all licensees containing an informational letter focused on the license renewal-related regulatory changes taking effect January 1, 2014. The CBA will send a secondary notification targeted to those licensees subject to the retroactive fingerprint requirement, with compliance instructions, approximately three months prior to their respective license renewal dates.

Additionally, staff has used the CBA publication *UPDATE* to provide further information specific to the new license renewal-related changes. For the Winter 2013 edition, staff included an article highlighting the retroactive fingerprint requirement and noting that it had recently developed a series of frequently asked questions (FAQs) that had been posted to the CBA website. Additionally, for the recently released Spring/Summer 2013 edition, staff included two articles specific to the license renewal-related changes: (1) an additional article on the retroactive fingerprint requirement highlighting a select number of the FAQs and (2) an article on the transition of the peer review reporting requirements, which included a handful of helpful FAQs. Staff intend for the Fall 2013 edition to include an article on various CE-related changes, which will address the modifications to the Fraud CE requirement.

License Renewal Application Package Revisions and Compliance

Staff are finishing revisions to the license renewal package to accommodate for the new requirements, which includes:

- Adding a new question to the license renewal application to collect fingerprint information
- Modifying the peer review statement on the license renewal application to include a reference to the new requirement to file the *Form PR-1* at license renewal
- Modifying the Fraud CE question to note four hours instead of eight
- Adding the *Form PR-1* to the application package

Upon receipt, staff will continue to complete 100 percent review of license renewal applications and newly accompanied *Form PR-1* to ensure compliance with all

**Planned Implementation for License Renewal-Related Changes Effective
January 1, 2014**

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regulations and requirements. For any identified deficiency CBA staff will work with licensees to bring them into compliance.

Fiscal/Economic Impact Considerations

None.

Recommendation

Although no CBA action is required for this agenda item, as always, staff would value any feedback members may have regarding the implementation of these upcoming changes.



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CBA Item VI.A.
July 25, 2013

Regulation Hearing Regarding 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: June 19, 2013

Purpose of the Item

The purpose of this agenda item is to provide information from the rulemaking file for the use of California Board of Accountancy (CBA) members during the regulatory hearing.

Action(s) Needed

No specific action is required on this agenda item.

Background

At its March 2013 meeting, the CBA directed staff to move forward with the rulemaking process to implement the practice privilege program.

SB 1405, which was signed by the Governor in September of 2012, created a new practice privilege program for the CBA. The new practice privilege law, effective July 1, 2013, which begins at section 5096 of the Business and Professions Code, allows individuals, whose principal place of business is outside of California and that are 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 notice or paying a fee. Individuals who wish to perform certain accounting and 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. This rulemaking would establish the rules, process and procedures necessary to

Regulation Hearing Regarding Title 16, California Code of Regulations (CCR) Sections 5.5, 18, 19, 20, 21, 22, 26, 36.1, and 98 – Practice Privilege

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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 Notice of Proposed Action was filed with the Office of Administrative Law (OAL) on April 2, 2013 and published on April 12, 2013, thus initiating the required 45-day public comment period. May 27, 2013, marked the end of the public comment period, and on July 25, 2013, during the CBA meeting, a public hearing will be conducted on the proposed action.

Comments

The following attachments will aid in your preparation for the hearing:

- Notice of Proposed Action (**Attachment 1**)
- Proposed Regulatory Language (**Attachment 2**)
- Initial Statement of Reasons (**Attachment 3**)

During the public hearing the CBA members may hear oral testimony and receive written comments. If any changes are made as a result of these comments, a 15-day Notice of Modified Text will be required. Staff received no public comments in relation to this regulatory package during the 45-day public comment period. The CBA may act to adopt the proposed regulations under **CBA Agenda Item VI.B**. Prior to submitting the final regulation package to OAL, staff will draft responses to any comments and prepare the Final Statement of Reasons for distribution to all persons who provide comments.

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 the additional workload for processing the self-reporting forms and firm registrations.

Recommendation

No action is required; therefore, staff has no recommendation on this item.

Attachments

1. Notice of Proposed Action
2. Proposed Regulatory Language
3. Initial Statement of Reasons

TITLE 16. DIVISION 1. CALIFORNIA BOARD OF ACCOUNTANCY

NOTICE IS HEREBY GIVEN that the California Board of Accountancy (CBA) is proposing to take the action described in the Informative Digest. Any person interested may present statements or arguments orally or in writing relevant to the action proposed at a hearing to be held at the Hyatt Regency Sacramento, 1209 L Street, Sacramento, CA, at 1:00 p.m., on July 25, 2013. Written comments, including those sent by mail, facsimile, or e-mail to the addresses listed under Contact Person in this Notice, must be received by the CBA at its office not later than 5:00 p.m. on May 27, 2013, or must be received by the CBA at the hearing. The CBA, upon its own motion or at the instance of any interested party, may thereafter adopt the proposals substantially as described below or may modify such proposals if such modifications are sufficiently related to the original text. With the exception of technical or grammatical changes, the full text of any modified proposal will be available for 15 days prior to its adoption from the person designated in this Notice as contact person and will be mailed to those persons who submit written or oral testimony related to this proposal or who have requested notification of any changes to the proposal.

Authority and Reference: Pursuant to the authority vested by Sections 5010, 5018, 5096.9, and 5116 of the Business and Professions Code and Section 11400.20, Government Code, and to implement, interpret or make specific 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, the California Board of Accountancy is considering changes to Division 1 of Title 16 of the California Code of Regulations as follows:

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). The law prior to July 1, 2013 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 that law, an out-of-state licensee could obtain a practice privilege by filing a notice with the CBA and paying a fee.

The new provisions, effective 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 accounting and 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 proposal 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.

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 (6th 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.

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 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.

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 accounting and attest functions for companies that are headquartered in California.

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.

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.

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.

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 8th 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 (pp. 20-25)
 - Section 5096(d) – Practicing through an 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;
- CBA Regulations (pp.38-39)
 - Section 20 – Notification of change of information for registered out-of-state accounting firms.

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.

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.

INCORPORATION BY REFERENCE

- 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" (8th edition, 2013)

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 Sections 17500 - 17630 Require Reimbursement: None

Business Impact:

The CBA has made an initial determination that the proposed regulatory action would have no significant statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states.

AND

The following studies/relevant data were relied upon in making the above determination:

Based on the current practice privilege program, it is projected that 50 out-of state licensees annually will be required to self-report events which would prohibit the practice of public accountancy in California. In addition, based on the number of practice privilege holders who are employed with firms not registered in California, the CBA estimates that approximately 422 firms will register in

California to allow their employees to provide attest services to California clients through a practice privilege. Registration involves simply filling out a short form.

Cost Impact on Representative Private Person or Business:

Based on the current practice privilege program, it is projected that 50 out-of-state licensees annually will be required to self-report events which would prohibit the practice of public accountancy in California. In addition, based on the number of practice privilege holders who are employed with firms not registered in California, the CBA estimates that approximately 422 firms will register in California to allow their employees to provide attest services to California clients through a practice privilege. Registration involves simply filling out a short form.

Effect on Housing Costs: None

EFFECT ON SMALL BUSINESS

The CBA has determined that the proposed regulations may affect small businesses.

RESULTS OF ECONOMIC IMPACT ASSESSMENT/ANALYSIS:

Impact on Jobs/Businesses:

The CBA has determined that this regulatory proposal will not have a significant impact on the creation of jobs or new businesses or the elimination of jobs or existing businesses or the expansion of businesses in the State of California because this proposal merely designates states that are considered substantially equivalent, incorporates some forms by reference, establishes an appeals process, allows a Notice of Intent to administratively suspend, and amends the Disciplinary Guidelines to conform to the new law. Therefore, the proposed regulatory changes are not sufficient to cause the creation or elimination of jobs or businesses.

Benefits of Regulation:

The CBA has determined that this regulatory proposal will have the following benefits to the health and welfare of California residents, worker safety, and state's environment:

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.

These benefits cannot be expressed in monetary terms.

CONSIDERATION OF ALTERNATIVES

The CBA must determine that no reasonable alternative it considered to the regulation or that has otherwise been identified and brought to its attention would be more effective in carrying out the purpose for which the action is proposed, would be as effective and less burdensome to affected private persons than the proposal described in this Notice, or would be more cost effective to affected private persons and equally effective in implementing the statutory policy or other provision of law.

Any interested person may present statements or arguments orally or in writing relevant to the above determinations at the above-mentioned hearing.

INITIAL STATEMENT OF REASONS AND INFORMATION

The CBA has prepared an initial statement of the reasons for the proposed action and has available all the information upon which the proposal is based.

TEXT OF PROPOSAL

Copies of the exact language of the proposed regulations, and any document incorporated by reference, and of the initial statement of reasons, and all of the information upon which the proposal is based, may be obtained at the hearing or prior to the hearing upon request from the CBA at 2000 Evergreen St., Ste. 250, Sacramento, California 95815.

AVAILABILITY AND LOCATION OF THE FINAL STATEMENT OF REASONS AND RULEMAKING FILE

All the information upon which the proposed regulations are based is contained in the rulemaking file which is available for public inspection by contacting the person named below.

You may obtain a copy of the final statement of reasons once it has been prepared, by making a written request to the contact person named below or by accessing the website listed below.

CONTACT PERSON

Inquiries or comments concerning the proposed rulemaking action may be addressed to:

Name: Matthew Stanley
Address: 2000 Evergreen St., Ste. 250
Sacramento, CA 95815
Telephone No.: 916-561-1792
Fax No.: 916-263-3678
E-Mail Address: matthew.stanley@cba.ca.gov

The backup contact person is:

Name: Deanne Pearce
Address: 2000 Evergreen St., Ste. 250
Sacramento, CA 95815
Telephone No.: 916-561-1740
Fax No.: 916-263-3678
E-Mail Address: deanne.pearce@cba.ca.gov

Website Access: Materials regarding this proposal can be found at
http://www.dca.ca.gov/cba/laws_and_rules/pubpart.shtml.

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" (~~7th edition, 2011~~ 8th 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)

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:

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.



CALIFORNIA BOARD OF
ACCOUNTANCY

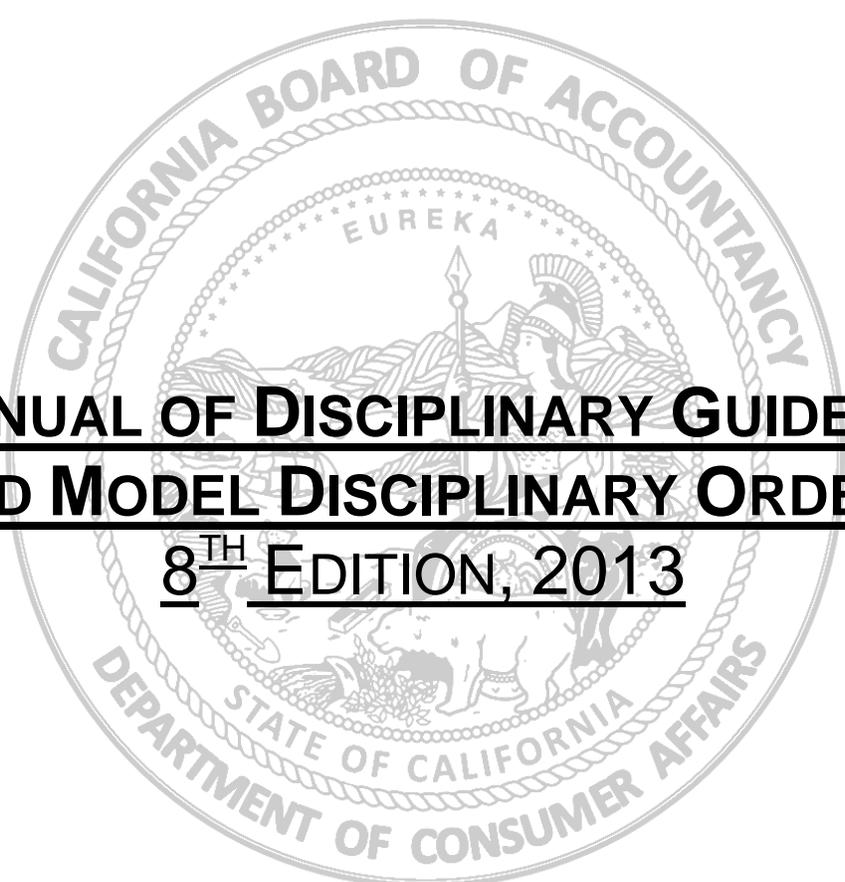


**A MANUAL OF DISCIPLINARY GUIDELINES
AND MODEL DISCIPLINARY ORDERS
7th Edition 2011**



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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. The inner ring contains "STATE OF CALIFORNIA".

A MANUAL OF DISCIPLINARY GUIDELINES AND MODEL DISCIPLINARY ORDERS 8TH EDITION, 2013

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

The logo for the California Board of Accountancy (CBA) features the letters "CBA" in a large, 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 condition(s) which contributed to the violation or when the same are alleged by respondent to be a contributing factor to the violation(s).

CALIFORNIA BOARD OF ACCOUNTANCY

INITIAL STATEMENT OF REASONS

Hearing Date: July 25, 2013

Subject Matter of Proposed Regulations: Practice Privilege

Sections Affected: Title 16, Division 1, Sections 5.5, 18, 19, 20, 21, 22, 26, 36.1, and 98.

Background/Problems Addressed

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). The law prior to July 1, 2013 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 that law, an out-of-state licensee could obtain a practice privilege by filing a notice with the CBA and paying a fee.

The new provisions, effective 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 proposal 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.

Specific Purpose:

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.

Factual Basis/Rationale:

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.

Specific Purpose:

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 (6th 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.

Factual Basis/Rationale:

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 provided by the CBA using these terms.

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

Specific Purpose:

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.

Factual Basis/Rationale:

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.

The forms referenced in proposed sections 18 and 19 would be cumbersome, unduly expensive and otherwise impractical to publish in the California Code of Regulations. They are available on the CBA's website and from the CBA upon request.

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

Specific Purpose:

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 accounting

and attest functions for companies that are headquartered in California.

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.

Factual Basis/Rationale:

The Out-of-State Accounting Firm Registration 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.

The rest of the requirements placed on registered firms in this section (for example, the five year cancellation, the requirement to maintain a current address and ownership information, etc.) are the same as the licensing requirements already in effect for California licensed firms. This was done in order to avoid unnecessary confusion.

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

Specific Purpose:

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.

Factual Basis/Rationale:

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.

Specific Purpose:

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.

Factual Basis/Rationale:

Existing CBA Regulation Section 35.1 is in Article 4 which is being made inoperative by this rulemaking. AB 1405 did not significantly alter the law regarding ASOs, and the idea behind the regulation in Section 35.1 is still needed; therefore, proposed Section 22 has been drafted to be consistent with, but not identical to, Section 35.1 which is being made inoperative.

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

Specific Purpose:

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.

Factual Basis/Rationale:

This proposal is necessary so as to avoid confusion from having two sets of practice privilege regulations in effect simultaneously.

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

Specific Purpose:

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

Factual Basis/Rationale:

The CBA needs a block of numbers in which to place the new practice privilege regulations. It was decided that the one section under existing Article 3 could be moved to Article 5, thus creating both the block of section numbers needed and freeing up an Article number as well.

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

Specific Purpose:

This proposal incorporates by reference the CBA's 8th 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 (pp. 20-25)
 - Section 5096(d) – Practicing through an 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;
- CBA Regulations (pp. 38-39)
 - Section 20 – Notification of change of information for registered out-of-state accounting firms.

Factual Basis/Rationale:

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. The framework for revising the Disciplinary Guidelines was to keep the same discipline if the new law was similar to the prior law, unless the discipline was prescribed by statute, in which case, the statute provided the new guideline.

Existing law, California Government Code Section 11425.50(e), specifies that a penalty may not be based on a guideline, criterion, bulletin, manual, instruction, order, standard of general application or other rule unless it has been adopted as a regulation. Section 98 of Title 16 of the California Code of Regulations incorporates by reference the CBA's "A Manual of Disciplinary Guidelines and Model Disciplinary Orders."

Section 5096.1 of the Business and Professions Code authorizes the CBA to revoke a practice privilege from any individual who has violated that section or implementing regulations or committed any act which would be grounds for discipline against the holder of a practice privilege. In addition, under Section 5096.2, holders of practice privileges are subject to suspension, fines, or other disciplinary actions for any conduct that would be grounds for discipline against a licensee of the board or for any conduct in violation of Article 5.1 of the Accountancy Act (commencing at Business and Professions Code Section 5096 and following) or regulations adopted thereunder. In order to standardize this discipline, and meet the requirement set forth in Section

5116(c) of the Business and Professions Code, the CBA adopted its Manual of Disciplinary Guidelines and Model Disciplinary Orders. From time to time, this manual is updated and revised. The latest revisions constitute the 8th edition of the manual.

The CBA regulates the practice of public accountancy and the protection of the public is the highest priority for the CBA in exercising its licensing, regulatory, and disciplinary functions. Under the law effective July 1, 2013, the CBA will have continuing jurisdiction over practice privilege holders in California, including authority to conduct investigations of practice privilege holders and authority to determine when and how a practice privilege holder should be disciplined to protect the public (Bus.&Prof.Code, §§ 5096(e), 5096.4(a), 5096.1, 5096.2). The Disciplinary Guidelines are necessary to assist the CBA, deputy attorney generals and administrative law judges to identify and impose appropriate disciplinary action against a practice privilege holder who violates the laws governing practice privilege holders in California.

The CBA's "A Manual of Disciplinary Guidelines and Model Disciplinary Orders" (8th edition, 2013) is referenced in these amendments. It would be cumbersome, unduly expensive and otherwise impractical to publish the documents in the California Code of Regulations. It is available on the CBA's website and from the CBA upon request.

Underlying Data

- Uniform Accountancy Act (6th Edition, August 2011), Section 3 – Definitions
- Minutes of the November 15-16, 2012 CBA Meeting
- Minutes of the January 24, 2013 Committee on Professional Conduct Meeting
- 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" (8th edition, 2013)

Economic Impact Assessment

This regulatory proposal will have the following effects:

- It will not create or eliminate jobs within the State of California because, based on the current practice privilege program, it is projected that 50 out-of state licensees annually will be required to self-report events which would prohibit the practice of public accountancy in California. In addition, based on the number of practice privilege holders who are employed with firms not registered in California, the CBA estimates that approximately 422 firms will register in California to allow their employees to provide attest services to California clients through a practice privilege. Registration involves simply filling out a short form.

The length and numbers of these forms, which are incorporated by reference, are not sufficient to create or eliminate jobs. All other business impact is a result of statutory provisions rather than regulatory.

- It will not create new business or eliminate existing businesses within the State of California because the proposed changes will not be of sufficient magnitude to have the effect of creating or eliminating businesses.
- It will not affect the expansion of businesses currently doing business within the State of California because the proposed changes will not be of sufficient magnitude to have the effect of creating or eliminating businesses.
- This regulatory proposal does not affect worker safety because it has nothing to do with worker safety.
- This regulatory proposal does not affect the state's environment because it has nothing to do with the environment.

Benefits

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.

These benefits cannot be expressed in monetary terms.

Specific Technologies or Equipment

This regulation does not mandate the use of specific technologies or equipment.

Consideration of Alternatives

The CBA has made an initial determination that no reasonable alternative to the regulatory proposal would be either more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private

persons or would be more cost-effective to affected private persons and equally effective in implementing the statutory policy or other provision of law than the proposal described in the Notice.

Set forth below are the alternatives which were considered and the reasons each alternative was rejected:

The CBA considered using a more detailed definition for “principle place of business,” but determined that the definition used in the Uniform Accountancy Act (UAA) is widely used by regulatory entities in multiple jurisdictions. Therefore, to be less burdensome to the practice privilege holders, the UAA definition was adopted.

The CBA discussed whether to require a renewal for out-of-state accounting firms that register with the CBA. It was determined that requiring a two-year renewal period would be no more burdensome than the CBA’s two-year renewal period for licensees, and would provide better consumer protection by ensuring that current information regarding the out-of-state firm is always available.



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CBA Item VI.B.
July 25, 2013

Discussion and Possible Action to Adopt or Amend 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: June 21, 2013

Purpose of the Item

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

Action(s) Needed

The CBA will be asked to adopt, with amendments, the proposed regulatory changes.

Background

Following the regulatory hearing to receive public comment on the proposal (**CBA Agenda Item VI.A.**), the next step in the process is that the CBA must act to formally adopt the proposed regulations.

The CBA may decide to make changes to the proposed regulations based on any received comments, or it may proceed with adopting the proposal without modification.

The CBA has already adopted emergency regulations on this subject. On June 10, 2013, the Office of Administrative Law (OAL) approved the emergency regulations which go into effect on July 1, 2013 and are in effect for 180 days with two 90-day readoptions allowed. This rulemaking is called a Certificate of Compliance which will make the emergency regulations permanent.

Comments

The proposal is identical to the one which was adopted by the CBA at its March 2013 meeting. Staff is recommending that the CBA adopt several modifications to the text which were required by OAL during the approval of the emergency regulations. These changes are all minor and technical in nature. They are identified in the Modified Text (**Attachment**) in double-strikethrough and double underline. Specifically, the changes are in sections 5.5, 20, 21, and 98; and in forms PP-11, PP-12, PP-13, and the Disciplinary Guidelines.

In addition, staff is proposing minor changes to the Out-of-State Firm Registration Form (PP-13). These changes would add brief instructions and further clarify the firms' responsibilities when filling out the form. Staff will be available to answer any questions members may have regarding these changes.

Discussion and Possible Action to Adopt or Amend 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

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Finally, staff is preparing an Addendum to the Initial Statement of Reasons to provide additional justification on certain points of the rulemaking. This was also requested by OAL in order to ensure a smooth approval process of the Certificate of Compliance. This Addendum would be a document added to the file and would be available to the public for the same 15 days as the Modified Text.

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 the additional workload for processing the self-reporting forms and firm registrations.

Recommendation

Staff are requesting, in order to incorporate the changes required by OAL, that the CBA adopt the following motion:

Motion: Direct staff to take all steps necessary to complete the rulemaking process, including sending out the modified text and documents added to the file 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 documents added to the file, and adopt the proposed regulations as described in the modified text notice.

Attachment

Modified Text



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Attachment

Modified Text

§ 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 or 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 5032, 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)~~ 5096.12(c), which ~~require~~ requires 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~~ 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 Section 5096.12, Business and Professions Code.

Existing Section 21 is being renumbered to Section 36.1. New Section 21 is adopted as follows:

§ 21. Appeals.

(a) Any individual practicing or wanting to practice under a practice privilege who wishes to contest an action taken by the Board or the Executive Officer ~~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~~ the Board or the Executive Officer.

(b) ~~The~~ If the action taken under 5096(g), 5096(h), or 5096(i) of the Business and Professions Code was taken by the Executive Officer, the Board will consider only appeals based on information previously considered by the Executive Officer ~~its staff~~. If the individual wishes to submit for consideration additional evidence or information not previously submitted to the Executive Officer ~~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~~ the Executive Officer will be referred by the Board to ~~staff~~ the Executive Officer 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~~ Sections 5096 and 5096.6, 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.

Article 5. Registration

~~§ 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.

Article 13. Denial, Suspension, and Revocation of Certificates, Permits, or Licenses

§ 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" (~~7th edition, 2011~~ 8th 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,~~ 5096, 5096.5, 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:

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:

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~~ suspension or revocation, including a stayed suspension, stayed revocation, or probation of your certificate, license, or permit.

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.



CALIFORNIA BOARD OF
ACCOUNTANCY

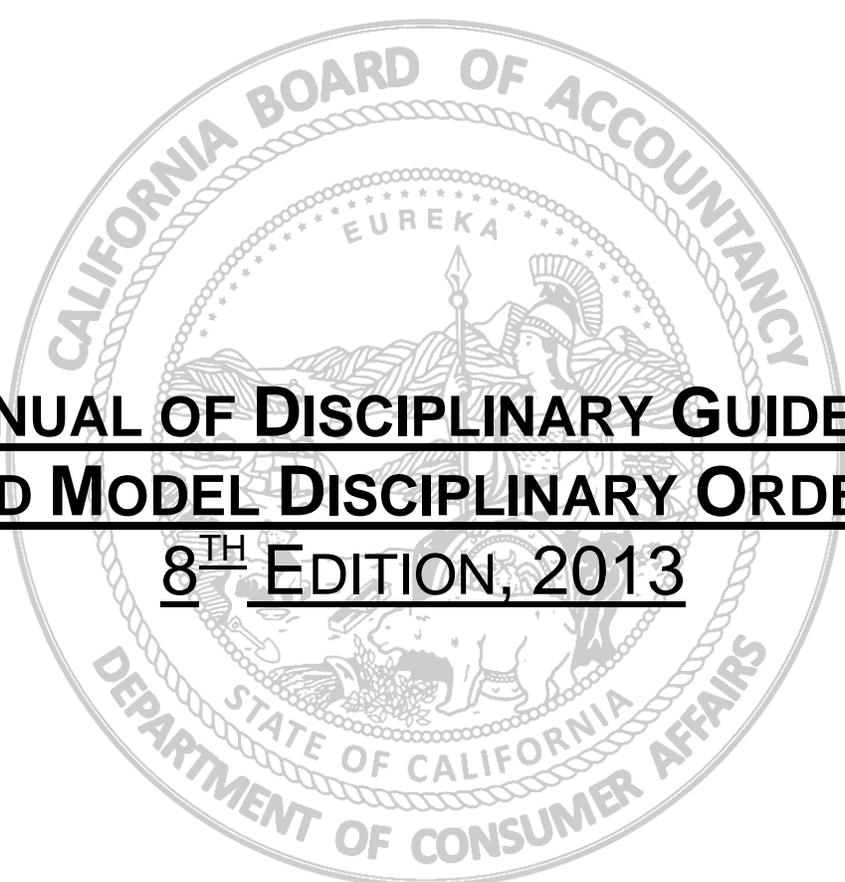


**A MANUAL OF DISCIPLINARY GUIDELINES
AND MODEL DISCIPLINARY ORDERS
7th Edition 2011**



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 8TH EDITION, 2013

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

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 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 condition(s) which contributed to the violation or when the same are alleged by respondent to be a contributing factor to the violation(s).

California Board of Accountancy Enforcement Activity Report

Fiscal Year 2012/13 Year End Report

Complaints

The Enforcement Division received 3,271 complaints in fiscal year (FY) 2012/13 and assigned 2,951 for investigation.

1.1 – Complaints/Records of Convictions	FY 2010/11	FY 2011/12	FY 2012/13
Received	854	1,911	3,271
<i>Internal – Peer Review (Failure to Respond)</i>	<i>N/A</i>	<i>872</i>	<i>1,800</i>
<i>Internal – Peer Review (Other)</i>	<i>N/A</i>	<i>58</i>	<i>508</i>
<i>Internal – All Other</i>	<i>387</i>	<i>503</i>	<i>510</i>
<i>External</i>	<i>467</i>	<i>478</i>	<i>453</i>
Assigned for Investigation	601	1,626	2,951
Closed – No Action	232	294	329
Average Days from Intake to Closure or Assignment for Investigation	5	4	3
Pending	22	12	3
Average Age of Pending Complaints (days) ¹	5	16	3
¹ Represents point in time data as of the end of the fiscal year.			

Comments

- The CBA received 1,360 more complaints in FY 2012/13 than FY 2011/12. This represents an increase of approximately 71 percent.
- Of the 3,271 complaints received, 1,800 related to failure to respond to CBA inquiry regarding submission of a Peer Review Reporting Form. An additional 508 complaints originated from failed peer reviews and peer review audits.
- The 510 Internal – All Other complaints primarily consist of referrals from the Renewals and Continuing Competency Unit for failure to complete the continuing education required for license renewal.
- The Average Days to Close or Assign for Investigation remains below previous years.
- In FY 2012/13 approximately 90 percent of the complaints received were assigned for investigation. This is an increase from FY 2011/12, and FY 2010/11, when the rate of assignment was 85 and 70 percent, respectively.

Investigations

The CBA Enforcement Division has assigned 2,951 cases for investigation in the current fiscal year. Enforcement staff has closed 2,872 investigations, and there are currently 518 cases assigned for investigation.

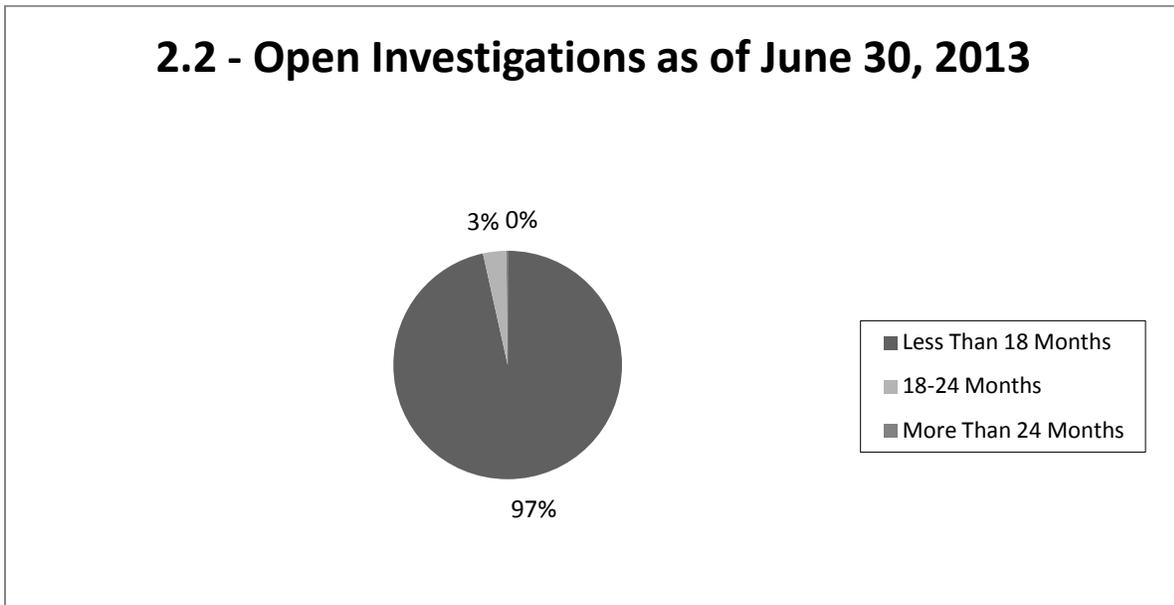
2.1 – Investigations	FY 2010/11	FY 2011/12	FY 2012/13
Assigned	601	1,626	2,951
<i>Internal – Peer Review (Failure to Respond)</i>	<i>N/A</i>	<i>872</i>	<i>1,794</i>
<i>Internal – Peer Review (Other)</i>	<i>N/A</i>	<i>58</i>	<i>437</i>
<i>Internal – All Other</i>	<i>272</i>	<i>335</i>	<i>361</i>
<i>External</i>	<i>329</i>	<i>361</i>	<i>359</i>
Closed	464	1,525	2,872
Average Days to Close	130	85	73
Investigations Pending ¹	334	439	518
<i>< 18 Months</i>	<i>301</i>	<i>384</i>	<i>500</i>
<i>18-24 Months</i>	<i>21</i>	<i>26</i>	<i>17</i>
<i>> 24 Months</i>	<i>12</i>	<i>29</i>	<i>1</i>
Average Age of Open Cases (days) ¹	238	248	166
Median Age of Open Cases (days) ¹	157	164	104

¹ Represents point in time data as of the end of the fiscal year.

Comments

- The Average Days to Close has decreased from 85 in the previous fiscal year to 73.
- One case has been open for more than 24 months; it is scheduled for an Investigative Hearing (IH) in July 2013.
- The Average and Median Ages of Open Cases in Table 2.1 remain approximately 67 and 64 percent lower than the previous two fiscal years, respectively.
- The number of investigations pending more than 24 months has decreased from 29 in FY 2011/12 to one in FY 2012/13, a decrease of approximately 97 percent.

Chart 2.2 illustrates the percentage of total open cases by length of time. Due to rounding, approximately 100 percent of investigations have been open for less than 24 months; three percent of investigations have been open for 18 to 24 months, and zero percent of investigations have been open for more than 24 months. It should be noted that one case has been open for more than 24 months, however it represents a .19 percent of the total, and therefore is rounded down to zero.



Discipline

The Enforcement Division referred 62 complaints to the Attorney General's (AG) Office in FY 2012/13. There have been 50 accusations filed and 58 disciplinary actions adopted. Of the 58 actions adopted, 39 were Stipulated Settlements, five were Proposed Decisions and 14 were Default Decisions. There are currently 57 cases pending at the AG's Office, with three pending for more than 24 months.

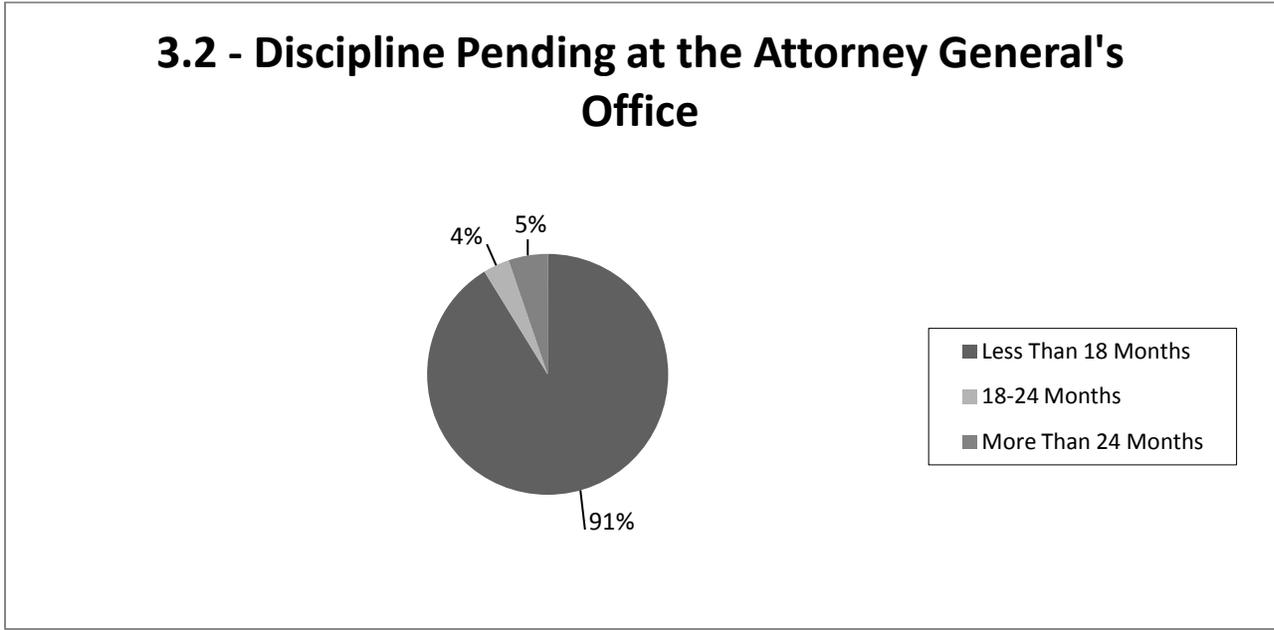
3.1 - AG Referrals	FY 2010/11	FY 2011/12	FY 2012/13
Referrals	24	50	62
Accusations Filed	20	37	50
Statements of Issues Filed	0	2	3
Petitions for Revocation of Probation Filed	2	3	3
Closed	22	26	58
<i>Via Stipulated Settlement</i>	12	19	39
<i>Via Proposed Decision</i>	6	3	5
<i>Via Default Decision</i>	4	4	14
Discipline Pending ¹	37	54	57
<i>< 18 Months</i>	32	44	52
<i>18-24 Months</i>	2	3	2
<i>> 24 Months</i>	3	7	3

¹ Represents point in time data as of the end of the fiscal year.

Comments

- There are three cases that have been at the AG's Office for more than 24 months:
 - One of the cases had a writ filed with the California Superior Court, and a Superior Court hearing is pending.
 - One had an administrative hearing scheduled in June 2013, and staff is waiting for the proposed decision from the ALJ.
 - The final case has been set for an administrative hearing.
- The number of referrals to the AG's Office has continued to grow, increasing from 50 in fiscal year 2011/12 to 62 in fiscal year 2012/13.
- Staff has closed and presented 58 disciplinary actions to the CBA in fiscal year 2012/13, which is an increase of 123 percent over the previous fiscal year.
- The number of Accusations Filed in fiscal year 2012/13 increased by 35 percent from fiscal year 2011/12.

Chart 3.2 illustrates the number of cases pending at the AG's Office by percentage. Approximately 95 percent of all CBA cases at the AG's Office have been open less than 24 months, four 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, 1,883 citations, with a total fine amount of \$532,400, have been issued by the Enforcement Division.

4.1 – Citations	FY 2010/11	FY 2011/12	FY 2012/13
Total Citations Issued	30	908	1,883
Total Fines Assessed	\$26,850	\$255,350	\$532,400
<i>Peer Review (Failure to Respond)</i>	<i>N/A</i>	<i>872</i>	<i>1,800</i>
<i>Peer Review Fines Assessed</i>	<i>N/A</i>	<i>\$217,850</i>	<i>\$450,000</i>
<i>Other Citations</i>	<i>30</i>	<i>36</i>	<i>83</i>
<i>Other Fines Assessed</i>	<i>\$26,850</i>	<i>\$37,500</i>	<i>\$82,400</i>
Average number of days from receipt of a complaint to issuance of a citation	268	22	67
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)	Practice Without Permit (B&P 5050)

Comments

- Of the 1,883 citations issued in the current fiscal year, 1,800 were issued for failure to respond to CBA inquiry regarding submission of a peer review reporting form.
- The CBA issued 89 citations for violations other than failure to submit a peer review reporting form, an increase of 147 percent from the previous year.

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 the end of the fiscal year, there were 53 licensees on probation. Staff held probation meetings in conjunction with the May EAC meeting, and met with four new probationers. The next probation meetings will be held in conjunction with the Enforcement Advisory Committee in July 2013.

Staff has created a plan to proactively manage and schedule practice investigations. It is anticipated the first group of practice investigations using the new approach will be held in August 2013, with additional investigations occurring bi-monthly thereafter.

Peer Review

As of June 28, 2013, 57,730 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	2,523	4,285	15,709	22,517	579
34-66	7/1/12	1,962	3,983	13,012	18,957	850
67-00	7/1/13	1,385	3,232	11,639	16,256	4,827
		5,870	11,500	40,360	57,730	13,065

Comments

- July 1, 2013 is the reporting deadline for licensees in the third and final peer review reporting phase. Staff is working to identify licensees that did not report their peer review status, and will be issuing them deficiency letters. Licensees will have 30 days to report their peer review information, otherwise they will be subject to a citation and fine.
- Staff is also developing a letter to inform all licensees of changes to the peer review reporting requirements pursuant to Regulation 45.

Division Highlights and Future Considerations

- The Enforcement Division is currently recruiting to fill two vacant AGPA positions, one in non-technical investigations, and the other in peer review.
- Enforcement Division management and staff have worked tirelessly over the past month to quantify the work performed in the division, and to request additional resources via the Budget Change Proposal process. Any new staff will be available in July, 2014.
- Enforcement staff were successful in obtaining a Penal Code 23 suspension order in Santa Clara County after the CPA was charged with theft by the District Attorney.
- The CBA received 1,360 more complaints in FY 2012/13 than 2011/12. This represents an increase of approximately 71 percent.
- The number of investigations pending more than 24 months has decreased from 29 in FY 2011/12 to one in FY 2012/13, a decrease of approximately 97 percent.
- Staff has closed and presented 58 disciplinary actions to the CBA in FY 2012/13, which is an increase of 123 percent over the previous FY.



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Taskforce Item II. **CBA Item VIII.A.2.**
July 24, 2013 July 25, 2013

Overview of Information Related to State Boards of Accountancy Experience Requirements for CPA Licensure and Available Consumer Information Regarding Authorized Services Provided by CPAs

Presented by: Kathryn Kay, Licensing Coordinator
Date: July 10, 2013

Purpose of the Item

This purpose of this item is to provide the Taskforce to Examine Experience for CPA Licensure (Taskforce) with additional research requested on other states' experience requirements and related consumer information.

Action(s) Needed

No specific action is required on this item.

Background

At the initial Taskforce meeting in May 2013, staff provided members with the Taskforce-Related Resource Materials which supplied members with important information on the California Board of Accountancy (CBA) experience-related statutes and regulations (including any required forms), information on licenses the CBA has issued under the present pathways, and the licensure requirements (including experience) of all 55 United States jurisdictions. Staff also provided the most recent version of the Uniform Accountancy Act and Model Rules, and documents dating back to 1995 regarding CBA and CBA committee-related discussions on the topic of experience, specifically related to reports and deliberations regarding aspects of the general accounting and attest experience requirements.

At the May meeting, the Taskforce directed staff to perform additional research in the following areas:

- For those states with a general accounting experience requirement, determine if they employ a committee similar to the CBA Qualifications Committee (QC) to assist in evaluating experience for licensure.
- Provide information showing how the CBA and other states display information to consumers regarding the types of services a licensee is authorized to perform.
- Provide a fuller understanding of other states' experience requirements.

Overview of Information Related to State Boards of Accountancy Experience Requirements for CPA Licensure and Available Consumer Information Regarding Authorized Services Provided by CPAs

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- Provide information on which states allow applicants to obtain qualifying experience via academia.

Comments

The attached State Boards of Accountancy Experience Requirement Resource Materials provide additional state research items requested by the Taskforce. These resource materials are divided into five appendices, labeled by the states contained within each appendix, and appear in alphabetical order.

Of the 55 states/jurisdictions, complete information was obtained for 47 states, but staff was unable to acquire complete information addressing all items for eight states. For these eight states, information obtained directly from the state board's website was synthesized with licensing information provided in the National Association of State Boards of Accountancy's (NASBA) Accountancy Licensing Library (ALL) database.

Due to the comprehensive nature of the research conducted, and for the purpose of presenting these items in as concise a manner as possible, research items have been organized into four main categories providing details and examples of identified variances.

Board/Committee Level Review

A majority of the states with a general accounting experience requirement do not have a committee similar to the QC. Eight states including Alabama, Arkansas, Alaska, Delaware, Hawaii, New Jersey, West Virginia, and Rhode Island require all applications to be reviewed and approved by the respective board. There are an additional seven states including Connecticut, District of Columbia, Indiana, Kentucky, Louisiana, Maine, and Missouri that review applications escalated by staff in the event it is unclear the experience requirement for licensure has been met. Additionally, Wisconsin reviews all applications for licensure that contain non-public general accounting experience.

There are a total of eight states that employ a committee similar to the QC to assist in evaluating an applicant's general accounting experience for licensure. These states include Minnesota, Wyoming, Texas, Arizona, North Carolina, Nebraska, Oklahoma, and Oregon.

Consumer Information

In addition to the license lookup feature on the state board's website, a majority of states provide consumer information such as license definitions, disciplinary actions, how to select a CPA, frequently asked consumer questions, and how to file a complaint against a CPA.

Staff identified three other states including Iowa, Massachusetts, and South Dakota, which offer both attest and general license types similar to California. For each of these

Overview of Information Related to State Boards of Accountancy Experience Requirements for CPA Licensure and Available Consumer Information Regarding Authorized Services Provided by CPAs

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states, examples from the license lookup feature as well as any additional materials and resources available relating to consumer protection and license restrictions have been provided in the attachment.

Although Iowa, Massachusetts, and South Dakota issue two types of licenses – one with the authority to provide attest services and one without – none of these states provide license restrictions via license lookup. In California, the license lookup feature identifies the type of experience completed (general accounting or attest), outlines the range of services a licensee may perform, provides license status with definitions, disciplinary actions, and the CBA website provides consumer resources such as the Consumer Assistance Booklet and information on how to select a CPA.

Other States' Experience Requirements

Of the 55 states/jurisdictions, 47 states require experience to be documented on the board's official experience form. Of the remaining states, they may either require a letter verifying employment from the supervisor, such as Alabama, Louisiana, and Massachusetts or have incorporated a section into the licensing application to be completed and signed by the supervisor such as Missouri, Tennessee, West Virginia, and Wyoming.

The majority of states do not require a supervisor's opinion on the quality of work performed by the applicant. California is included in this category due to that fact that an opinion by the supervisor is required for applicants seeking licensure with the attest authority; however, a supervisor's opinion is not required for general accounting experience. It is interesting to note that Florida and New Mexico encourage the supervisor to provide additional information regarding the applicant's moral character but it is not required for licensure.

States that Accept Experience Obtained via Academia

Staff identified 41 states that allow an applicant to be licensed with experience obtained via academia; however, three of the states – Alabama, Indiana, and Michigan – permit the experience but do not presently have procedures in place regarding its acceptance. All other states that accept experience obtained via academia require some form of employer verification regarding the courses taught, which may include a letter from the dean or department head submitted on university letterhead. In all states, except Florida, Iowa, North Carolina, and Georgia, the dean or the department head must be a licensed CPA and/or the experience must be supervised by a CPA.

Experience obtained via academia is not always equivalent on a year for year basis to the practice-related types of experience. For example, Georgia and South Carolina require five years of experience in academia while one year is required for all other types of experience. One year of experience in academia is usually defined as equivalent to teaching 12 semester units in accounting courses.

Overview of Information Related to State Boards of Accountancy Experience Requirements for CPA Licensure and Available Consumer Information Regarding Authorized Services Provided by CPAs

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While the number of years of experience may vary by state, over half of the states that accept experience obtained via academia deem this type of experience to be equivalent on a year-for-year basis to experience obtained in public accounting, private industry, and government. These states/jurisdictions include:

Commonwealth of Northern Mariana Islands	Delaware	Guam		
Hawaii	Kansas	Illinois	Louisiana	Maryland
Mississippi	Missouri	Montana	New Mexico	North Dakota
Ohio	Oregon	Puerto Rico	South Dakota	Tennessee
Utah	Virginia	West Virginia	Wyoming	

The following five states/jurisdictions accept experience obtained in academia on a case by case basis only:

District of Columbia Minnesota Oklahoma Washington Wisconsin

The research materials provided in this item are in intended to aid the Taskforce with its deliberations in evaluating California's experience requirements for CPA licensure. As always, staff stand ready to assist and answer any questions Taskforce members may have and perform any additional research required.

Fiscal/Economic Impact Considerations

None.

Recommendation

Staff has no recommendation on this item.

Attachment

State Boards of Accountancy Experience Requirement Resource Materials

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Taskforce Item III.
July 24, 2013

CBA Item VIII.A.3.
July 25, 2013

Overview of CBA-Related Licensure Information Regarding California CPA Applicant Qualifying Experience Earned in Public and Non-Public Accounting and Areas of Practice, and Enforcement Statistical Information

Presented by: Kathryn Kay, Licensing Coordinator

Date: July 10, 2013

Purpose of the Item

The purpose of this item is to provide the Taskforce to Examine Experience for CPA Licensure (Taskforce) statistical information regarding the types of experience with which general and attest applicants are initially licensed, the percentage of California licensees in public versus non-public practice, peer review reporting information, and CBA enforcement-related disciplinary actions taken against licensees with general and attest experience.

Action(s) Needed

No specific action is required on this item.

Background

At the May 2013 Taskforce meeting, staff provided information regarding the number of licenses with attest and general experience issued under the present pathways system including the number of licenses converted from general to attest authority post-licensure. In order to have further discussion on this topic, members requested statistical information regarding the percentage of California licenses issued based on qualifying public and non-public accounting experience as well as the percentage of licensees in public and non-public practice. The Taskforce also discussed pre- and post-licensure consumer protection measures and requested information regarding peer review reporting and enforcement-related disciplinary actions taken against licensees with general and attest experience.

Comments

Staff prepared a report (**Attachment 1**) that provides information regarding applicants that were initially licensed with public accounting experience, non-public accounting experience (industry or government), or a combination of qualifying experience from each sector. These statistics have been provided for a two-year time period, broken down by quarter.

Overview of CBA-Related Licensure Information Regarding California CPA Applicant Qualifying Experience Earned in Public and Non-Public Accounting and Areas of Practice, and Enforcement Statistical Information

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Percentage of Applicants with Public Experience vs. Non-Public Experience

Overall, the data shows that the majority (approximately 80 percent per quarter) of CPA applicants approved for licensure obtained experience in the public sector. Of those public sector applicants, the majority (approximately 50-60 percent per quarter) were licensed with general accounting experience.

Staff performed an in-depth analysis of the accounting experience data for the past six months and discovered the following:

- The average number of attest hours for which an applicant with either public or non-public experience has been issued a license with attest authority is 2,581.
- The average number of attest hours for which an applicant with solely public experience has been issued a license with attest authority is 2,931.
- The lowest number of attest hours for which an applicant has been issued a license with attest authority is 500 hours. The one applicant approved with this number of hours gained experience entirely in the auditing category while employed at a public accounting firm.
- The average length of experience for which an applicant from any sector (general or attest and public or non-public) has been issued a license is 29 months.
- The average length of experience for which an applicant with solely public experience has been issued a license with attest authority is 38 months.

Percentage of California Licensees in Public vs. Non-Public Practice

In preparation for the 1999 CBA Sunset Review Report, staff undertook a comprehensive two-year study with the objective of evaluating the effectiveness of the CBA's continuing education requirements to determine the value and effectiveness of the requirements on consumer protection. As part of the study, detailed statistical information was gathered regarding the active CPA/PA licensee population that may be of interest to Taskforce members, including the number of years licensed, primary area of practice, and the issuance of financial statements. Due to the in-depth nature of this type of study, staff were unable to duplicate these efforts for this Taskforce meeting. However, assuming the ratios hold true, applying the statistical information obtained from the study to today's licensee population gives a general idea as to the type of practice today's CPAs/PAs may be engaging in (**Attachment 2**).

Although the CBA does not presently track the number of licensees working in public and non-public accounting, the license renewal application does include a question regarding the practice of public accountancy. Should members wish more recent information, staff could perform a manual count of the number of licensees indicating public practice on the license renewal form. Please keep in mind that any licensee who does not indicate public practice could either be working in the private sector or simply not presently working and staff would not be able to differentiate between the two.

Overview of CBA-Related Licensure Information Regarding California CPA Applicant Qualifying Experience Earned in Public and Non-Public Accounting and Areas of Practice, and Enforcement Statistical Information

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Peer Review Reporting Information

Peer review is required for all California-licensed accounting firms, including sole proprietorships that perform accounting and auditing services using the following professional standards:

- Statements on Auditing Standards (SAS);
- Statements on Standards for Accounting and Review Services (SSARS);
- Statements on Standards on Attestation Engagements (SSAE);
- Government Auditing Standards (Yellow Book); and
- Audits of non-Security Exchange Commission (SEC) issuers performed pursuant to the standards of the Public Company Accounting Oversight Board (PCAOB).

Attest services as used in section 5095 of the Business and Professions (B&P) Code and attest report as used in section 5096.5 of the B&P Code include an audit, a review of financial statements, or an examination of prospective financial information. Individuals licensed with general accounting experience are not eligible to provide attest services. However, CBA Regulation section 2.4 states that attest services shall not include the issuance of compiled financial statements. Therefore, individuals licensed with general experience can prepare compilations and thus, may be subject to peer review.

CBA Enforcement staff has verified a portion of the Peer Review Reporting Forms and, although the verification process will not be concluded until all licensees have fulfilled the peer review reporting requirement, a review of the available information indicates that:

- Approximately 18 percent or 10,246 of the 55,860 forms filed were filed by licensees with general accounting experience;
- Approximately 1 percent or 58 of the 5,589 licensees who are subject to a peer review were filed by licensees with general accounting experience; and,
- Approximately 1 percent or 4 of the 334 failed peer reviews received are attributable to licensees with general accounting experience.

Enforcement Actions

Enforcement-related statistics show that since 2002, 337 licensees have been disciplined. Of those licensees disciplined, 99 percent (333 licensees) held a license with attest experience and 1 percent (4 licensees) held a license with general experience.

Overview of CBA-Related Licensure Information Regarding California CPA Applicant Qualifying Experience Earned in Public and Non-Public Accounting and Areas of Practice, and Enforcement Statistical Information

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Factors contributing to the disparate discipline percentages between licensees with attest experience and general experience may include that licensees with attest experience may have been practicing longer and licensees with general experience may not be practicing public accountancy. Further, as the initial licensing statistics show, a large percentage of licensees with general experience have obtained experience in the non-public sector (industry or government). Therefore those licensees may not be practicing public accountancy and may not be the subject of complaints.

The areas of discipline imposed on licensees with general experience have been limited to the following B&P Code sections:

- 5100(a): Conviction of any crime substantially related to the qualifications, functions and duties of a certified public accountant or a public accountant.
- 5100(d): Cancellation, revocation, or suspension of a certificate or other authority to practice as a certified public accountant or a public accountant, refusal to renew the certificate or other authority to practice as a certified public accountant or a public accountant, or any other discipline by any other state or foreign country.
- 5100(g): Willful violation of this chapter or any rule or regulation promulgated by the board under the authority granted under this chapter.

Staff is hopeful that the information provided will aid the Taskforce in its deliberations regarding the experience requirements for CPA licensure. Staff stand ready to address any inquires and provide additional research should members so desire.

Fiscal/Economic Impact Considerations

None.

Recommendation

Staff has no recommendation on this item.

Attachments

1. Percentage of Applicants with Public Experience vs. Non-Public Experience
2. Statistical Information Regarding CBA Licensees

Percentage of Applicants with Public Experience vs. Non-Public Experience

2013 – 1 st Quarter			
Type of Accounting Experience	Number of Applications	Percentage of Total Applications	Type of License Issued
Public	539	79%	38% Attest
			62% General
Non-Public	126	18%	0% Attest
			100% General
Mixed Experience*	17	3%	12% Attest
			88% General

2012 – 4th Quarter			
Type of Accounting Experience	Number of Applications	Percentage of Total Applications	Type of License Issued
Public	727	82%	36% Attest
			64% General
Non-Public	133	15%	1% Attest
			99% General
Mixed Experience*	22	3%	32% Attest
			68% General

2012 – 3rd Quarter			
Type of Accounting Experience	Number of Applications	Percentage of Total Applications	Type of License Issued
Public	585	80%	45% Attest
			55% General
Non-Public	117	16%	2% Attest
			98% General
Mixed Experience*	27	4%	11% Attest
			89% General

* Applicants that met licensure requirements through a combination of both public and non-public accounting experience have been categorized as "Mixed Experience."

Percentage of Applicants with Public Experience vs. Non-Public Experience

2012 – 2nd Quarter			
Type of Accounting Experience	Number of Applications	Percentage of Total Applications	Type of License Issued
Public	626	75%	46% Attest
			53% General
Non-Public	188	22%	2% Attest
			98% General
Mixed Experience*	25	3%	12% Attest
			88% General

2012 – 1st Quarter			
Type of Accounting Experience	Number of Applications	Percentage of Total Applications	Type of License Issued
Public	651	78%	40% Attest
			60% General
Non-Public	154	18%	0% Attest
			100% General
Mixed Experience*	32	4%	6% Attest
			94% General

2011 – 4th Quarter			
Type of Accounting Experience	Number of Applications	Percentage of Total Applications	Type of License Issued
Public	716	82%	45% Attest
			55% General
Non-Public	131	15%	2% Attest
			98% General
Mixed Experience*	23	3%	30% Attest
			70% General

* Applicants that met licensure requirements through a combination of both public and non-public accounting experience have been categorized as “Mixed Experience.”

Percentage of Applicants with Public Experience vs. Non-Public Experience

2011 – 3rd Quarter			
Type of Accounting Experience	Number of Applications	Percentage of Total Applications	Type of License Issued
Public	648	80%	50% Attest
			50% General
Non-Public	143	17%	2% Attest
			98% General
Mixed Experience*	21	3%	0% Attest
			100% General

2011 – 2nd Quarter			
Type of Accounting Experience	Number of Applications	Percentage of Total Applications	Type of License Issued
Public	700	77%	48% Attest
			52% General
Non-Public	179	19%	3% Attest
			97% General
Mixed Experience*	32	4%	6% Attest
			94% General

2011 – 1st Quarter			
Type of Accounting Experience	Number of Applications	Percentage of Total Applications	Type of License Issued
Public	621	77%	45% Attest
			55% General
Non-Public	141	18%	3% Attest
			97% General
Mixed Experience*	42	5%	24% Attest

* Applicants that met licensure requirements through a combination of both public and non-public accounting experience have been categorized as "Mixed Experience."

CPA/PA Licensee Population

	Number of Licensees As of July 1, 1998	Number of Licensees As of July 1, 2013
Total CPA/PA Licensees	60,614	86,890
Active Status	37,798	52,162
Inactive Status	13,186	27,238
Other*	9,630	7,490

*The disparity in the number of licensees in this category is likely due to the fact that in addition to the delinquent and renewal in process license statuses, "other," for July 1, 1998 includes the CBA's prior retired license status option, which is a license status not available as of July 1, 2013.

Number of Years Licensed for Active CPA/PAs

Number of Years Licensed	Percentage of Active Licensees	Number of Licensees As of July 1, 1998	Number of Licensees As of July 1, 2013
0 – 10	43.5%	16,443	22,690
11 – 20	33.2%	12,549	17,318
21 – 30	14.7%	5,556	7,668
30+	8.6%	3,250	4,486

The number of licensees is achieved by applying the percentages obtained in the 1998 study to the number of active licensees as of July 1, 1998 and July 1, 2013.

Primary Area of Practice for Active CPA/PAs

Area of Practice	Percentage of Active Licensees	Number of Licensees As of July 1, 1998	Number of Licensees As of July 1, 2013
Public Accounting	59%	22,301	30,775
Private Industry	25%	9,449	13,041
Government	5%	1,890	2,608
Education	1%	378	522
Other	10%	3,780	5,216

The number of licensees in each category is achieved by applying the percentages obtained in the 1998 study to the number of active licensees as of July 1, 1998 and July 1, 2013.



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Taskforce Item IV.
July 24, 2013

CBA Item VIII.A.4.
July 25, 2013

Overview of Post-CPA Licensure Specializations and Affiliations and CBA Post-Licensure Requirements to Perform Certain Accounting and Auditing Services

Presented by: Kathryn Kay, Licensing Coordinator

Date: July 10, 2013

Purpose of the Item

The purpose of this agenda item is to provide the Taskforce to Examine the Experience for CPA Licensure (Taskforce) members with requested information regarding optional post-licensure specializations and certifications as well as California Board of Accountancy (CBA) post-licensure requirements to perform accounting and auditing services.

Action(s) Needed

No specific action is required on this item.

Background

At the May 2013 Taskforce meeting, members discussed the effectiveness of the 500-hour attest experience requirement in providing newly licensed certified public accountants (CPA) with the necessary exposure to attest functions. Members stressed the importance of striking an appropriate balance between setting minimum competency standards for entry into the profession and licensees being fully competent in the attest function, the one service only a licensed CPA license can perform. To aid in this discussion members requested staff provide information regarding areas of post-licensure specialization and CBA post-licensure requirements to perform accounting and auditing services.

Comments

Post-licensure specializations and the CBA requirements to perform accounting and auditing services both provide licensees with additional knowledge that reinforces the education and experience obtained while in pursuit of the CPA license. The main difference between these two areas is that post-licensure specializations are optional and the CBA requirements are not.

Post-Licensure Specializations and Certifications

It is quite common for CPAs to obtain additional professional accounting certifications post-licensure and/or to pursue a specialized area of practice. There are dozens of

Overview of Post-Licensure Designations and Affiliations and CBA Post-Licensure Requirements to Perform Certain Accounting and Auditing Services

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available professional accounting certifications, most of which do not require an individual hold a CPA license. For the purposes of this paper staff focused on a sampling of certifications and/or specializations specific to CPAs.

Most professional certifications are obtained by completing specialized education and/or passing an examination administered by a professional society or association. The American Institute of Certified Public Accountants (AICPA) offers its CPA members access to two certifications – the Certified in Financial Forensics (CFF) credential and the Accredited in Business Valuation (ABV) credential. According to the AICPA, the CFF credential encompasses fundamental and specialized forensic accounting skills in areas such as bankruptcy, computer forensic analysis, valuations, fraud prevention, and financial statement misrepresentation. The ABV credential is designed to increase public awareness of the CPA as the preferred business valuation professional. The requirements for each of these credentials are outlined below.

- CFF Requirements
 - Hold a valid CPA license
 - Pass the CFF Exam
 - Complete a minimum of 1,000 hours of business experience in forensic accounting within the five-year period preceding the date of application
 - Complete 75 hours of forensic accounting-related continuing education

- ABV Requirements
 - Hold a valid CPA license
 - Pass the ABV Exam
 - Complete either six business valuation engagements or 150 hours of business valuation experience within the five-year period preceding the date of application
 - Complete 75 hours of valuation-related continuing education

In addition to the two credentials directly offered by the AICPA, the Chartered Institute of Management Accountants, a membership organization based in the U.K., offers AICPA members access to the Chartered Global Management Accountant (CGMA) designation. According to the CGMA website, the designation elevates the profession of management accounting and demonstrates business acumen, ethics and commitment. In order to qualify for the CGMA designation the CPA must meet the following requirements:

- Be an active member of the AICPA
- Complete an accounting degree including a minimum of 150 semester hours
- Complete 14 hours of examinations comprised of multiple choice and case study questions
- Complete one year of accounting work experience
- Complete three years of management accounting experience

Overview of Post-Licensure Designations and Affiliations and CBA Post-Licensure Requirements to Perform Certain Accounting and Auditing Services

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State and federal government agencies often maintain specific registration requirements before a licensed CPA is permitted to practice before the agency. In California, pursuant to section 41020 of the Business and Professions Code, the Legislature encourages sound fiscal management practices among local educational agencies by requiring annual audits of all public funds. In order for a CPA to conduct this type of audit he/she must maintain an active CPA license and register with the State Controller's Office (SCO) by submitting a letter of intent. The SCO verifies the status of the CPA's license with the CBA prior to adding the licensee's name to the list of approved auditors.

Any CPA in good standing may practice before the Internal Revenue Service (IRS) upon the filing of a written declaration with the IRS stating that the CPA is authorized and qualified to represent a particular taxpayer. Practice before the IRS covers all matters related to communicating with the IRS for a taxpayer regarding the taxpayer's rights, privileges, or liabilities under the laws and regulations administered by the IRS; representing a taxpayer at conferences, hearings, or meetings with the IRS; and preparing and filing documents, including tax returns, with the IRS for a taxpayer.

In compliance with the Sarbanes-Oxley Act of 2002 (SOX), the Public Company Accounting Oversight Board (PCAOB) requires all accounting firms to submit a registration form and receive PCAOB approval prior to preparing or issuing audit reports or playing a substantial role in the preparation or furnishing of an audit report for companies and other issuers, or broker-dealers. Staff were unable to identify any published minimum standards that accounting firms must meet in order to qualify. However, the PCAOB website indicates that in evaluating a firm's registration, the PCAOB bases its approval decision on its responsibility under SOX to protect investors and further the public's interest in the preparation of informative, accurate, and independent audit reports. Firms are also required to renew the registration annually and provide information related to the type and number of audit reports issued in the preceding 12 months.

Provided below is a list of several professional certifications that CPAs may obtain, but for which a CPA license is not required, and the corresponding organization that issues the designation. The majority of these certifications require the passage of an exam and/or meeting specified continuing education requirements.

- Accredited Business Accountant – *Accreditation Council for Accountancy and Taxation*
- Accredited Financial Examiner – *Society of Financial Examiners*
- Certification in Control Self-Assessment – *Institute of Internal Auditors*
- Certified Bank Auditor – *BAI Center for Certification*
- Certified Financial Services Auditor – *Institute of Internal Auditors*
- Certified Forensic Accountant – *American College of Forensic Examiners Institute*
- Certified Government Auditing Professional – *Institute of Internal Auditors*
- Certified Government Financial Manager – *Association of Government Accountants*
- Certified Internal Auditor – *Institute of Internal Auditors*

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- Certified Professional Environmental Auditor – *Board of Environmental, Health and Safety Auditor Certifications*
- Certified Quality Auditor – *American Society for Quality*

CBA Requirements to Perform Accounting and Auditing Services

The CBA maintains a pair of post-licensure requirements to perform accounting and auditing services – continuing education for individual licensees and peer review for accounting firms.

Continuing Education (CE)

To maintain an active license all CPAs must complete a minimum of 80 hours of qualifying CE during each two-year licensure period.¹ Qualifying CE must be a formal program of learning which contributes directly to the professional competence of a licensee in public practice. Licensees may select courses from a wide range of providers including private institutions; national, state, and local accounting organizations; universities and colleges; and professional development courses offered by a licensee's accounting firm. In addition to the general subject area requirements, licensees performing certain accounting and auditing services are required to complete a portion of the 80 hours in specified subject areas.

The governmental auditing CE requirement, implemented in 1990, requires that a licensee who engages in the planning, directing, conducting substantial portions of field work, or reporting on financial or compliance audits of a governmental agency² must complete 24 hours of CE in governmental accounting, auditing, or related subjects. Qualifying CE must be completed in the following related subjects: those which maintain or enhance the licensee's knowledge of governmental operations, laws, regulations and reports; any special requirements of governmental agencies; subjects related to the specific or unique environment in which the audited entity operates; and other auditing subjects which may be appropriate to government auditing engagements.

The accounting and auditing (A&A) CE requirement was added in 1995 to require that a licensee who engages in the planning, directing, approving or performing of substantial portions of the work, or reporting on an audit, review, compilation, or attestation service of a non-governmental agency must complete 24 hours of A&A CE. Course subject matter must pertain to financial statement preparation and/or reporting (whether such statements are prepared on the basis of generally accepted accounting principles or other comprehensive bases of accounting), auditing, reviews, compilations, industry accounting, attestation services, or assurance services.

¹ While 80 hours is the standard CE requirement, a licensee with a less than full two-year licensure period will have a prorated CE requirement. This usually occurs during the first licensing period or after converting a license from inactive to active status prior to the license expiration date.

² A governmental agency is defined as any department, office, commission, authority, board, government-owned corporation, or other independent establishment of any branch of federal, state, or local government.

Overview of Post-Licensure Designations and Affiliations and CBA Post-Licensure Requirements to Perform Certain Accounting and Auditing Services

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In addition to the Governmental Auditing and A&A CE requirements, the licensee must also complete four hours of fraud CE specifically related to the detection and/or reporting of fraud in financial statements.

Peer Review

The CBA implemented mandatory peer review over a three year period beginning January 1, 2010, for all firms performing accounting and auditing services, including sole proprietorships. For the purposes of peer review, accounting and auditing services include any services that are performed using the following professional standards:

- Statements on Auditing Standards (SASs)
- Statements on Standards for Accounting and Review Services (SSARS)
- Statements on Standards on Attestation Engagements (SSAEs)
- Government Auditing Standards (Yellow Book)
- Audits of non-Security Exchange Commission (SEC) issuers performed pursuant to the standards of the Public Company Accounting Oversight Board (PCAOB)

All firms subject to peer review must have a peer review report accepted by a Board-recognized peer review program once every three years and report the peer review information to the CBA as a condition of license renewal.

Specializations, designations, continuing education, and peer review aside, it is incumbent upon all CPAs, pursuant to section 58 of the CBA Regulations, to comply with all applicable professional standards, including but not limited to, generally accepted accounting principles and generally accepted auditing standards. This includes compliance with ET Section 56, Article V of the AICPA Code of Professional Conduct which states that in all engagements and in all responsibilities, each CPA should undertake to achieve a level of competence that will assure that the quality of service meets the high level of professionalism required.

Fiscal/Economic Impact Considerations

None.

Recommendation

Staff has no recommendation on this item.



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Taskforce Item V. **CBA Item VIII.A.5.**
July 24, 2013 July 25, 2013

Discussion on Modifications to the Experience Requirement for CPA Licensure Mandated Pursuant to Business and Professions Code Sections 5092, 5093, and 5095 and Title 16, California Code of Regulations Sections 12 and 12.5

Presented by: Dominic Franzella, Chief, Licensing Division

Date: July 10, 2013

Purpose of the Item

The purpose of this item is to continue Taskforce to Examine the Experience for CPA Licensure (Taskforce) discussions on what modifications, if any, should be made to the experience requirement for certified public accountant (CPA) licensure.

Action(s) Needed

The Taskforce is being asked to provide staff direction on possible recommendations on modifications to the experience requirement for CPA licensure.

Background

At the initial Taskforce meeting in May 2013, staff provided members with the **attached** paper – designed to initiate discussions on possible modifications to California's experience requirement for CPA licensure. In the paper, staff synthesized various prior California Board of Accountancy (CBA) and committee/taskforce consideration on the topic. Prior to evaluating the alternatives outlined in the attached paper or any other recommendations related to the CPA licensure experience requirement, the Taskforce requested that staff provide additional research on various requirements of the other state boards of accountancy, CBA-related statistical information, and post-licensure designations and requirements.

Comments

At their core, the three alternatives originally outlined by staff, and again provided below, offer the highest level alternatives available to the Taskforce. These include:

1. Eliminate the requirement that an applicant satisfy an attest experience requirement prior to being authorized to sign reports on attest engagements (Elimination of "A")
2. Eliminate an applicant's ability to obtain licensure with general accounting experience (Elimination of "G")

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3. Maintain the status quo as it relates to obtaining licensure with either general accounting or attest experience

Again, these do not represent the limits of the alternatives available to the Taskforce. Many of the previously considered topics by the CBA and its committees/taskforces continue to offer reasonable options that Taskforce could consider as part of a larger recommendation. Also, the Taskforce could look to how other state boards of accountancy have addressed the experience requirement for inclusion of a larger recommendation. Aside from the straightforward Elimination of “A” or “G”, some of these could include:

- Attest firm registration
- Issuing two distinct licenses (attest and non-attest)
- Further defining general accounting experience
- Increasing the number of attest hours
- Allowing experience earned in academia to qualify toward the experience requirement
- Further defining the 12 month experience requirement to include an applicant complete a certain number of hours (*i.e.* a minimum 12 months of general accounting experience to include no less than 1600, 1800, 2000 hours)

As the Taskforce weighs any of its potential recommendations, it is important it does so using the questions originally posed by Taskforce Chair Ramirez at the May meeting – specifically:

- What is the problem the CBA is attempting to solve?
- Who will be impacted and how will they be impacted?
- How will the final outcome further the CBA’s primary mandate of consumer protection?

As it relates to the question regarding furthering the CBA’s primary mandate of consumer protection, the guiding forces for the Taskforce, and thus the CBA, in evaluating this mandate are Business and Professions (B&P) Code section 5000.1 and the CBA Mission Statement.

Discussion on Modifications to the Experience Requirement for CPA Licensure Mandated Pursuant to Business and Professions Code Sections 5092, 5093, and 5095 and Title 16, California Code of Regulations Sections 12 and 12.5

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B&P Code section 5000.1 – Priority of the board, Protection of the Public

Protection of the public shall be the highest priority of the California Board of Accountancy in exercising its licensing, regulatory, and disciplinary functions. Whenever the protection of the public is inconsistent with other interests sought to be promoted, the protection of the public shall be paramount.

CBA Mission Statement

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

Lastly, as the Taskforce continues its evaluations of alternatives for possible recommendation to the CBA, staff wants to note that with the exception of maintaining the existing status quo, any modifications to the experience requirement that the Taskforce offers to the CBA would likely require the CBA to seek a legislative change. Additionally, depending on the nature of the changes and a possible need to further define elements of the changes, a potential exists that the CBA will need to initiate a rulemaking. As the Taskforce determines the recommendations it is seeking to make, staff will be better able to provide a timeline of activities associated with any potential modifications.

Fiscal/Economic Impact Considerations

None.

Recommendation

Staff has no recommendation on this item.

Attachment

Taskforce Item V, May 23, 2013 – Discussion on Modification to the Experience Requirement for CPA Licensure Mandated Pursuant to Business and Professions Code Sections 5092, 5093, and 5095 and Title 16, California Code of Regulations Sections 12 and 12.5



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Taskforce Item V. CBA Item X.C.5.
May 23, 2013 May 23-24, 2013

Discussion on Modifications to the Experience Requirement for CPA Licensure Mandated Pursuant to Business and Professions Code Sections 5092, 5093, and 5095 and Title 16, California Code of Regulations Sections 12 and 12.5

Presented by: Dominic Franzella, Chief, Licensing Division
Date: May 8, 2013

Attachment

Purpose of the Item

The purpose of this item is to initiate Taskforce to Examine the Experience for CPA Licensure (Taskforce) discussion on what modifications, if any, should be made to the experience requirement for certified public accountant (CPA) licensure.

Action(s) Needed

The Taskforce will be asked to plot a course of action for continued future discussion topics related to evaluation of the experience requirement.

Background

In depth background information on California Board of Accountancy (CBA) consideration regarding the experience requirement for CPA licensure is located in **Taskforce Agenda Item III**. However, to further assist the Taskforce in its deliberations on this topic, staff has provided the below information on various options previously considered by the CBA and its committees/taskforces. It should be noted that staff has simply synthesized this information and has not performed an evaluation on the below options.

Previously Considered Options

ELIMINATION OF THE ATTEST EXPERIENCE REQUIREMENT

While the CBA did appear to have discussed this as part of its 1995-96 sunset review, it appears it was really taken up in earnest as part of the 2000 sunset review process. As part of the materials the CBA submitted to the Legislature for the 2000 sunset review, it included the CBA's rationale for eliminating the attest experience requirement.¹ The CBA's position rested on a couple of factors:

¹ See Taskforce Agenda Item III, Appendix 6.b.i, page 61.

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- Based on a study the CBA performed, only 13 percent of licensees indicated that auditing was their primary area of practice
- Many individuals who passed the Uniform CPA Examination indicated that the obtaining attest experience represented a significant barrier
- It would achieve greater consistency with the Uniform Accountancy Act
- Because of the rapid pace of technological change related to financial transactions, the attest experience requirement was no longer reflective of the current public accounting environment

The CBA believed that a better approach to regulating the attest function in California was to require accounting firms performing attest services to obtain a special designation (*i.e.* “attest status”). (Additional information on this recommendation is provided in the next subsection.)

As noted in the materials, the CBA received opposition regarding the elimination of the attest experience requirement, both from the Department of Consumer Affairs (DCA) and Center for Public Interest Law (CPIL).² DCA voiced its concern that audit services are of value to consumers and eliminating the requirement could “compromise a consumer’s ability to have a thorough and accurate audit performed.” Similarly, CPIL indicated that weakening the attest function would hurt consumers and the investing public.

As highlighted in **Taskforce Agenda Item IV**, during the 2000 sunset review process a compromise was reached regarding several of the CBA’s proposals, one of which included the elimination of the attest experience requirement. As it related specifically to experience, legislation was passed that allowed an individual to obtain a CPA license by completing general accounting experience only.

ATTEST FIRM REGISTRATION

One of the items the CBA considered as part of its elimination of the attest experience requirement was the establishment of peer review and attest firm registration.³ Under the proposal brought to the CBA by its Peer Review/Attest Firm Taskforce, and which it subsequently adopted in July 2000, the following would occur:

² See **Taskforce Agenda Item III, Appendix 6.b.ii and 6.b.v-vi, respectively.**

³ See **Taskforce Agenda Item III, Appendix 7.a.ii.**

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- All partnerships, corporations, and sole proprietors providing audit or review services (attest firms) would be required to undergo a system review type of peer review in accordance with professional standards
- Acceptable system reviews could be obtained from any provider as long as the system review is performed in accordance with professional standards and the provider is approved by the CBA
- Partnerships and corporations not providing attest services would continue to be registered by the CBA
- Accounting firms issuing compilations as their highest level of service would not need to undergo peer review, and instead would be reviewed by the CBA Report Quality Monitoring Program
- A sole proprietor providing attest services would be required to register as a firm. Registration and renewal would be coordinated with renewal of the individual license, and there would be no additional fee

While the peer review aspect of this proposal has since been accomplished with the establishment of mandatory peer review in 2010, the concept of the attest firm registration did not get included in any legislation arising out of the CBA's 2000 sunset review process.

ELIMINATION OF THE OPTION TO OBTAIN CPA LICENSURE WITH GENERAL ACCOUNTING EXPERIENCE

Since the enactment of the option to obtain licensure with general accounting experience, it appears that the CBA has only deliberated on this specific topic in-depth on one occasion – September 2008.⁴ The CBA considered various issues regarding this topic, which included:

- Staff information that an increase of applicants sought licensure without fulfilling the attest experience
- How would the CBA handle the existing population of CPAs licensed with general accounting experience?
- The Enforcement Division had not received any complaints alleging consumer harm by CPAs licensed with general accounting experience

⁴ See **Taskforce Agenda Item III, Appendix 7.c.i-iii.**

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- How would a transition plan be developed?

As part of the materials considered by the CBA for this topic, staff did present an option for CBA consideration of issuing two distinct licenses, which was previously recommended by the Qualifications Committee (QC) in 2006. This would have included issuing two different wall certificates and pocket identification cards.

After receiving both written and public testimony on the matter, the CBA decided to maintain the status quo.

ISSUE TWO DISTINCT LICENSES (ATTEST AND NON-ATTEST)

This issue was originally brought to the forefront by the QC as part of various recommendations it made to the CBA in 2006.⁵ Staff again offered this alternative to the CBA as part of its deliberations in 2008 regarding the elimination of the option to obtain licensure with general accounting experience (see above).

As it related to the QC's 2006 recommendation, the CBA referred this issue to the CPC for further consideration. As it related to staff's offering of this same alternative in 2008, the CBA elected to maintain the status quo.

FURTHER DEFINING GENERAL ACCOUNTING EXPERIENCE

In January 2010, the CBA requested that the QC discuss and make recommendations on whether to further define general accounting experience in regulation.⁶ The CBA made the request to address concerns raised by licensee supervisors, CBA members, and QC members regarding whether certain experience obtained by applicants would qualify as general accounting experience.

After extensive deliberations undertaken by the QC, it determined, with the assistance of legal counsel, that the manner in which Business and Professions (B&P) Code sections 5092 and 5093 are presently structured, the CBA is limited in the ability to require experience be obtained in any one area. As a result, the QC made the following recommendations to the CBA in connection with its evaluation:

- No change to the regulations because based on the present statutory language in B&P Code sections 5092 and 5093, there is no effective way to further define general accounting experience

⁵ See **Taskforce Agenda Item III, Appendix 7.b.vi.**

⁶ See **Taskforce Agenda Item III, Appendix 7.e.i-vi.**

Discussion on Modifications to the Experience Requirement for CPA Licensure Mandated Pursuant to Business and Professions Code Sections 5092, 5093, and 5095 and Title 16, California Code of Regulations Sections 12 and 12.5

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- If the CBA wants to further define general accounting experience in regulation, it first consider a change to how general accounting experience is defined in statute
- Better disclosure and outreach to inform consumers of the limitations of CPAs licensed without the authority to sign reports on attest engagements

The CBA took no action on the QC's recommendations.

INCREASE THE MINIMUM NUMBER OF ATTEST HOURS

As noted in previous papers, present law requires that an applicant who wants to sign reports on attest engagements must complete a minimum of 500 hours, satisfactory to the CBA, in attest services. On at least two occasions, the QC has discussed a possible increase in the attest hours from 500 to 1,000.⁷

As part of its discussion in 2006, the QC believed that with the attest function no longer being a barrier to entry with the advent of the option to obtain licensure with general accounting experience, in addition to furthering the mission of the CBA to protect the public, it recommended an increase to 1,000 hours. As it related to this item, the CBA referred it to the Committee on Professional Conduct for future discussion.

In 2009, the QC again began the task of evaluating an increase in the minimum number of hours from 500 to 1,000. Over the course of several meetings, it reviewed various statistics related to attest hours, possible correlations between enforcement actions and the attest experience hours, and other states' attest experience requirements, the QC eventually decided to maintain the status quo and not recommend to the CBA an increase in the minimum hours.

Comments

While for this meeting, it is not expected that the Taskforce will establish a specific recommendation as it relates to the experience requirement, it is anticipated that the Taskforce will provide needed clarification and direction on how it would like to proceed in its future exploration.

As a starting point, it appears that the Taskforce has three primary options as it relates to the experience requirement:

1. Eliminate the requirement that an applicant satisfy an attest experience requirement prior to being authorized to sign reports on attest engagements (e.g. Elimination of "A")

⁷ See **Taskforce Agenda Item III, Appendix 7.b.iv and 7.d.i-viii.**

Discussion on Modifications to the Experience Requirement for CPA Licensure Mandated Pursuant to Business and Professions Code Sections 5092, 5093, and 5095 and Title 16, California Code of Regulations Sections 12 and 12.5

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2. Eliminate an applicant's ability to obtain licensure with general accounting experience (e.g. Elimination of "G")
3. Maintain the status quo as it relates to obtaining licensure with either general accounting or attest experience

While these appear to be the most straightforward options, by no means do these represent the limits of the Taskforce's options. Even if the Taskforce recommends maintaining the status quo, it could easily recommend various sub-options to modify the existing attest and general accounting experience requirements and possible changes to the outreach efforts the CBA takes to identify the differences between a CPA licensed with attest experience and without (*i.e.* the CBA website).

In examining next steps, the Taskforce may want to consider the below ideas. By no means are they all-inclusive nor are they mutually exclusive, but staff hope they will aid in the Taskforce's preliminary discussions.

- The Taskforce could begin identifying additional options not previously considered by the CBA or its committees/taskforces.
- The Taskforce could direct staff to evaluate and provide input on the previously considered options by the CBA, as well as provide any staff-developed options for Taskforce consideration.
- The Taskforce could direct staff to provide additional research-related materials, including anything related to CBA processes or statistics.

Based on the directions taken by the Taskforce, for the next meeting, staff will perform any necessary research; begin evaluating how certain recommendations may impact the CBA and its stakeholders, including providing preliminary ideas regarding the questions outlined in Chairperson Ramirez's **Taskforce Agenda Item II**; and provide timelines to achieve any of the various recommendations under consideration by the Taskforce. Staff believes these steps should help further aid the Taskforce as it considers what recommendations it wants to bring forth to the CBA.

Fiscal/Economic Impact Considerations

None.

Recommendation

Staff has no recommendation on this item.



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Taskforce Item VI.
July 24, 2013

CBA Item VIII.A.6.
July 25, 2013

Bonnie Moore Case Decision and Results of Legal Cases Research

Presented by: Kristy Shellans, Legal Counsel

Date: July 10, 2013

Purpose of the Item

The purpose of this agenda item is to provide the Taskforce to Examine the Experience for CPA Licensure (Taskforce) members with requested information on court cases regarding the use of the term "accountant."

Action(s) Needed

No specific action is required on this agenda item.

Background

At the May 23, 2013 Taskforce meeting, members discussed the meaning of a certified public accountant (CPA) license and whether there are functions that a CPA performs that do not require a license. To aid in this discussion, members requested that legal counsel provide information regarding the July 2, 1992 California Supreme Court Case, *Bonnie Moore v. the California Board of Accountancy (CBA)* decision (**Attachment 1**) and other court cases regarding the use of the term "accountant."

Comments

Legal counsel review of over 44 cases resulted in the findings of one additional case, which may be of interest to members. The September 26, 1994 Division 4, First District California Court of Appeal Case, *Shaun Carberry v. the CBA* decision is provided as **Attachment 2**. Legal counsel will be present at the Taskforce meeting to provide further details and answer any questions members may have.

Fiscal/Economic Impact Considerations

None.

Recommendation

Staff has no recommendation on this item.

Attachments

1. July 2, 1992 California Supreme Court Case, *Bonnie Moore v. the CBA*
2. September 26, 1994 Division 4, First District California Court of Appeal Case, *Shaun Carberry v. the CBA*

H

Supreme Court of California,
 In Bank.

Bonnie MOORE et al., Plaintiffs, Cross-defendants
 and Appellants,

v.

CALIFORNIA STATE BOARD OF ACCOUNT-
 ANCY, Defendant, Cross-complainant and Re-
 spondent.

No. S017399.

July 2, 1992.

Rehearing Denied Aug. 27, 1992.

Unlicensed persons brought suit against State Board of Accountancy seeking declaratory judgment that Board could not constitutionally enjoin or prohibit unlicensed persons from using terms “accountant” and “accounting” in referring to licensed persons or services rendered by them, and permanent injunction ordering Board to cease all enforcement actions against use of those terms. Board filed cross complaint for injunctive relief. The Superior Court, San Francisco County, Thomas J. Dandurand, J., granted Board's request, and appeal was taken. The Court of Appeal reversed and remanded for modification of injunction, appeal was taken. The Supreme Court, [Baxter](#), J., held that: (1) regulation prohibiting use of title “accountant” or description of services offered as “accounting” by unlicensed person was authorized by Accountancy Act, and (2) Act could only ban those uses of terms “accountant” and “accounting” that stood to potentially mislead public regarding user's licensee or nonlicensee status.

Affirmed.

[Mosk](#), J., filed dissenting opinion.

[George](#), J., filed dissenting opinion in which [Mosk](#) and [Kennard](#), JJ., joined.

Opinion, [272 Cal.Rptr. 108](#), superceded.

West Headnotes

[1] Statutes 361  **181(1)****361** Statutes

361VI Construction and Operation

361VI(A) General Rules of Construction

361k180 Intention of Legislature

361k181 In General

361k181(1) k. In general. [Most Cited](#)

[Cases](#)**Statutes 361**  **194****361** Statutes

361VI Construction and Operation

361VI(A) General Rules of Construction

361k187 Meaning of Language

361k194 k. General and specific words and provisions. [Most Cited Cases](#)

Fundamental rule that court's objective in construing statute is to ascertain and effectuate underlying legislative intent overrides doctrine of ejusdem generis or any maxim of jurisprudence, if application of doctrine or maxim would frustrate any intent of underlying statute. [West's Ann.Cal.Civ.Code § 3509](#).

[2] Accountants 11A  **3.1****11A** Accountants

11Ak3 Regulation; License or Certificate

11Ak3.1 k. In general. [Most Cited Cases](#)

(Formerly 11Ak3)

State Board of Accountancy regulation prohibiting use of title “accountant” or description of services offered as “accounting” by unlicensed person was authorized by section of Accountancy Act prohibiting use by unlicensed person of any designation that was likely to be confused with “certified public accountant” or “public accountant”; Board could reasonably conclude that terms “accountant” and “accounting” were likely to be confused with official titles denoting licensure. [West's Ann.Cal.Bus. & Prof.Code §§ 5010, 5058](#).

[3] Statutes 361 ↪ **212.1**

361 Statutes

361VI Construction and Operation

361VI(A) General Rules of Construction

361k212 Presumptions to Aid Construction

361k212.1 k. Knowledge of legislature. [Most Cited Cases](#)

Presumption that legislature is aware of administrative construction of statute should be applied if agency's interpretation of statutory provisions is of such longstanding duration that legislature may be presumed to know of it; such presumption should also be applied on showing that construction or practice of agency has been made known to legislature.

[4] Accountants 11A ↪ **3.1**

11A Accountants

11Ak3 Regulation; License or Certificate

11Ak3.1 k. In general. [Most Cited Cases](#)

(Formerly 11Ak3)

Accountancy Act could constitutionally ban only those uses of generic terms "accountant" and "accounting" that stood to potentially mislead public regarding user's licensee or nonlicensee status; unlicensed persons were entitled to use those terms, if such use was further qualified by explanation, disclaimer or warning stating that advertiser was not licensed by the state, or that services being offered did not require state license. [West's Ann.Cal.Bus. & Prof.Code § 5058](#); [U.S.C.A. Const.Amend. 1](#).

[5] Judgment 228 ↪ **251(1)**

228 Judgment

228VI On Trial of Issues

228VI(C) Conformity to Process, Pleadings, Proofs, and Verdict or Findings

228k247 Conformity to Pleadings and Proofs

228k251 Issues Raised by Pleadings

228k251(1) k. In general. [Most Cited](#)

[Cases](#)

Judgment 228 ↪ **255**

228 Judgment

228VI On Trial of Issues

228VI(C) Conformity to Process, Pleadings, Proofs, and Verdict or Findings

228k247 Conformity to Pleadings and Proofs

228k255 k. Facts and evidence. [Most Cited Cases](#)

Trial court rendered judgment outside issues raised by pleadings or at trial by holding that preparation of compilation reports, review reports and audit reports by persons unlicensed by State Board of Accountancy was illegal, where Board had never alleged in its cross complaint that unlicensed persons were engaged in such illegal activities and presented no evidence at trial to establish that such activities were illegal.

*****359** ***1003** ****799** Kronick, Moskovitz, Tiedemann & Girard, [Leonard M. Friedman](#), Sacramento, and [Ralph C. Alldredge](#), San Francisco, for plaintiffs, cross-defendants and appellants.

[Robert C. Fellmeth](#), Julianne B. D'Angelo, San Diego, [Gerald J. Thain](#), Madison, Wis., William H. Sager and [James G. Seely](#), San Francisco, as amici curiae on behalf of plaintiffs, cross-defendants and appellants.

John K. Van de Kamp and [Daniel E. Lungren](#), Attys. Gen., and [Wilbert E. Bennett](#), Deputy Atty. Gen., for defendant, cross-complainant and respondent.

BAXTER, Justice.

We granted review in this case to determine whether persons *unlicensed* by the State Board of Accountancy (Board), the public agency charged with administering the regulatory scheme governing the profession of public accountancy in California (Bus. & Prof.Code, § 5000 ^{FNI} et seq., commonly known as the Accountancy Act), may hold themselves out to the public as "accountants," or as persons qualified and *****360** ****800** lawfully able to offer "accounting" services for compensation.

FNI. All further statutory references are to the Business and Professions Code unless otherwise indicated.

***1004** As will be shown, under California's reg-

ulatory scheme, accounting activities falling within the statutory definition of the “practice of public accountancy” are reserved to the Board’s licensees. “Public accountancy” is broadly defined; a person is deemed to be practicing public accountancy, and is thus subject to the jurisdiction and licensing requirements of the Board, if the person does any of the following: “[h]olds himself or herself out to the public *in any manner* as one skilled in the knowledge, science and practice of accounting, and as qualified and ready to render professional service therein as a public accountant for compensation” (§ 5051, subd. (a), italics added); “[o]ffers to prospective clients to perform for compensation ... professional services that involve or require an audit, examination, verification, investigation, certification, presentation, or review, of financial transactions and accounting records” (*id.*, subd. (c)); or “[i]n general or as an incident to that work, renders professional services to clients for compensation *in any or all matters relating to accounting procedure* and to the recording, presentation, or certification of financial information or data” (*id.*, subd. (e), italics added).

In contrast, unlicensed persons may offer to the public only a limited category of basic accounting services when performed “as a part of bookkeeping operations.” (§§ 5051, subd. (f), 5052.) Furthermore, they may not assume or use any title or designation “likely to be confused” with the two official titles reserved for licensed accountants: “certified public accountant” and “public accountant.” (§ 5058.) Exercising the rulemaking authority granted to it in the Accountancy Act, the Board has adopted a regulation which prohibits the use of either the title “accountant” or the description of services offered as “accounting” by an unlicensed person. ([Cal.Code of Regs., tit. 16, sec. 2](#) [hereafter Regulation 2].) Appellants contend that in so doing the Board exceeded its authority, that the regulation is therefore invalid, and that even if the regulation is permissible under [section 5058](#), the restriction denies them rights under the First Amendment to the United States Constitution.

California’s statutory scheme reserves the practice of public accountancy to the Board’s licensees—persons who have been certified as qualified to offer and perform the full gamut of accounting services, and whose educational, experience, and ethical qualifications have been established as a prerequisite to licensing. To protect members of the public from

the unlicensed practice of public accountancy, [section 5058](#) prohibits the use by an unlicensed person of *any* designation or term describing the person’s profession, or services he or she offers, that is likely to cause a layperson to believe that the provider is licensed. Thus, the section expressly prohibits the use by an unlicensed person of any designation that is “likely to be confused with ‘certified public accountant’ or ‘public accountant.’ ”

***1005** The Board has determined that the terms “accountant” and “accounting” are misleading to members of the public, many of whom believe that a person who uses these terms must be licensed. For the reasons explained below, we conclude that the adoption and enforcement of Regulation 2 is a proper exercise of the Board’s authority to administer the Accountancy Act, and, in particular, [section 5058](#). We further conclude, however, that the regulatory scheme may constitutionally ban only those uses of the terms “accountant” and “accounting” that may potentially mislead the public regarding the user’s licensee or nonlicensee status. Where the terms are used in conjunction with a modifier or modifiers that serve to dispel any possibility of confusion—for example, an express disclaimer stating that the “accounting” services being offered do not require a state license—their use in such a context may not be constitutionally enjoined.

I

Facts and Procedural Background

In 1986, appellants Bonnie Moore, an unlicensed individual, Accounting Center, a California corporation of which Moore is ***361 **801 president, and the California Association of Independent Accountants (CAIA), a nonprofit membership organization affiliated with the National Society of Public Accountants (NSPA), collectively filed suit against respondent Board for declaratory relief and a permanent injunction. ([Code Civ.Proc., § 1060](#).) The complaint alleged that Moore had received a letter from the Board ordering her and Accounting Center to cease and desist from using the terms “accountant” and “accounting” in referring to herself, the business of Accounting Center, or the services she offered to the public. The complaint further alleged that resolution of the question of whether the Board may constitutionally prohibit use of generic terms such as “accountant” and “accounting” by unlicensed individuals will affect thousands of other unlicensed persons

practicing throughout the state of California. At that time approximately 700 such individuals were members of CAIA, and the officers and directors of CAIA joined the lawsuit to challenge the Board's actions on behalf of CAIA's membership. The complaint sought a declaratory judgment that the Board may not constitutionally enjoin or prohibit appellants or members of CAIA from using the terms "accountant" and "accounting" in referring to unlicensed persons or the services rendered by them, and a permanent injunction ordering the Board to cease all enforcement actions against the use of those terms.

After its demurrer to the complaint was overruled, respondent Board filed an answer and a cross-complaint for injunctive relief against the named *1006 plaintiffs plus 2,000 Doe defendants. Does 1 through 1,000 were designated California members of CAIA, and Does 1,001 through 2,000 were designated as individuals who "have transacted and continue to transact business in the County of San Francisco and elsewhere in the State of California." The cross-complaint alleged that the cross-defendants were engaged in the practice of public accountancy and of tax preparation within California, yet were not licensed as public accountants or certified public accountants. The first amended cross-complaint prayed in part that cross-defendants be enjoined from using the words "accountant," "accounting," or "accounting services" in referring to themselves or their businesses, or representing themselves as "accountants" in any other manner which would tend to mislead or confuse the public.

During the ensuing court trial, evidence was introduced establishing that Moore possesses a college degree with a major in accounting. She has never taken the examination to become a certified public accountant (CPA), nor is she interested in doing so. Respondent Board concedes she meets the educational eligibility requirements for the CPA examination, but not the experience requirement for licensure. As a practical matter, in order to satisfy the latter requirement—two years of public accounting experience under the supervision of a licensed accountant (§§ 5081.1, 5083)—she would have to secure employment with a CPA for at least two years.

Accounting Center primarily designs and installs basic accounting systems for small business clients. Once the system is set up, bookkeepers service the

accounts, supervised by degreed accountants. The firm prepares monthly financial statements and long-range financial projections for its clients in furtherance of budgetary control and sound financial management practices. In a generic sense, the firm "audits" its client's books for internal purposes, although it does not produce formal signed audits. Moore conceded she is not qualified to perform the type of formal audits that a CPA does, nor is she qualified to perform services that require a certification of financial statements.

Moore uses the terms "accountant" and "accounting" to describe herself and her services in 90 percent of her advertising. She refers to her business on building directories, in the telephone directory, and in radio and television advertising as "Accounting Center."

Like Moore, none of the various officers or members of CAIA who testified at trial have ever passed the CPA examination. Ronald Duffin, a former president of CAIA, operates an accounting and tax service***362 **802 Edwin Greenstreet, another former president of CAIA, operates a tax, accounting *1007 and bookkeeping business. John Jenkins, president-elect of CAIA at the time of trial, owns a bookkeeping and income tax business. Among other services, he prepares reports that are filed with various governmental agencies, and signs the reports as "John Jenkins, Accountant."

In January 1987, after respondent Board had unsuccessfully demurred to appellants' complaint and filed its answer, the Board, through its counsel, the Office of the California Attorney General, contacted the Field Research Corporation, an independent opinion research firm that conducts the California Poll, an ongoing survey of Californians that attempts to measure public attitudes on various unrelated topics. All results from the polls are made public. The Attorney General sought to determine the public's perception of whether a person is licensed by the State of California when that person holds himself or herself out as an "accountant" ready and able to offer "accounting services." To this end, the following two questions were included in the April 1987 California Poll: (1) "Do you think that persons who refer to themselves as accountants in advertising to the public are required to be licensed by the State of California?," and (2) "Do you think persons who advertise

accounting services to the public are required to be licensed by the State of California to offer such services?”

The results of the poll with respect to the first question indicated that 55 percent of those surveyed believed that a person who advertised as an “accountant” had to be licensed, 26 percent did not believe a license was required, and 19 percent did not know. The results of the second question indicated that 53 percent believed that a person who advertised “accounting services” to the public was required to be licensed by the state, 29 percent did not believe a license was required, and 18 percent did not know.

Appellants introduced expert testimony in an effort to establish the ordinary meaning and usage of the terms “accountant,” “accounting,” and “bookkeeping.” Dr. Maurice Moonitz, Accounting Professor Emeritus at the University of California, testified that over the years “double entry bookkeeping,” a “fairly simple recording technology” by which business transactions are recorded, evolved into the field now commonly known as accounting. Today, according to Moonitz, the accounting profession, which he characterizes as the “umbrella term,” has absorbed the basic recording or bookkeeping functions which, in years past, were performed by “bookkeepers.” Traditionally, the bookkeeper would identify the transactions that are taking place, and then record the transactions according to a “predesigned pattern” or system of recordation. Today, the accountant “would probably be the one who designed the system in the first place,” and “would take over the financial statements, preparation of those, because then those would need *1008 analysis so that the accountant could inform management of the meaning of what took place during the year.”

At the completion of trial, the court entered judgment denying relief to appellants, and granting respondent Board’s request for a permanent injunction enjoining appellants from “[u]sing the words ‘accountant,’ ‘accounting,’ or ‘accounting services’ in referring to themselves, their businesses or their services in the context of holding themselves out to the public in the offering or rendering of professional services, or representing themselves as ‘accountants’ in any other manner which would tend to mislead or confuse the public.”

This appeal followed. The Court of Appeal, relying in part on the only California case to have considered whether use of the terms at issue here may be banned— [People v. Hill \(1977\) 66 Cal.App.3d 320, 136 Cal.Rptr. 30 \(Hill \)](#)—concluded the statutory scheme prohibited an unlicensed person from holding himself or herself out to the public as an “accountant,” or as a person otherwise qualified to provide “accounting services” for compensation. Crediting the California Poll survey evidence introduced by respondent Board, the Court of Appeal found that “the terms ‘accountant’ and ‘accounting,’ standing ***363 **803 alone, are misleading to the public and may not be utilized by unlicensed persons.”

The Court of Appeal went on to observe that the [Hill](#) court ([supra](#), [66 Cal.App.3d 320, 136 Cal.Rptr. 30](#)), in upholding the preliminary injunction before it in that case, did not reach or consider the constitutional limitations called into play by the United States Supreme Court’s commercial speech decisions of the past decade. The Court of Appeal therefore proceeded to reach the constitutional issue, concluding that the high court’s commercial speech cases “make it clear that to satisfy the First Amendment, we must permit the use of [the generic terms] if they are qualified by a warning or disclaimer that avoids their misleading impact.” The Court of Appeal concluded, “While we do not intend to dictate the language which would be acceptable, it is obvious that the term ‘unlicensed accountant,’ for instance, is not misleading. Thus, the judgment and injunction in this case must be modified to prohibit only the use of the terms ‘accountant’ or ‘accounting’ without a modifier, qualifier, disclaimer, or warning stating either that the advertiser is not licensed by the state or that the services provided do not require a state license.”

Appellants urge this court to reverse the Court of Appeal decision. They contend that the key statute, [section 5058](#), neither expressly nor implicitly prohibits an unlicensed person from using the unqualified generic terms. To the extent [Hill, supra, 66 Cal.App.3d 320, 136 Cal.Rptr. 30](#), held that the Accountancy Act *1009 permits such a prohibition, appellants urge that it was wrongly decided and should be disapproved. Appellants further contend that Regulation 2, the Board’s administrative regulation implementing [section 5058](#) by prohibiting *any* use of the terms “accountant” or “accounting” by unlicensed persons, improperly expands the scope of that statute

and should therefore be declared invalid. It is asserted that if unlicensed persons can lawfully offer basic “accounting” services to the public under the state’s regulatory scheme, then such persons’ use of the generic terms “accountant” or “accounting” in holding themselves out to the public is constitutionally protected commercial speech, and consequently, the Board’s blanket prohibition upon their use of the generic terms imposes an unconstitutional restraint on their First Amendment rights.

Appellants further contend that the California Poll survey evidence introduced by respondent below established, at best, only that use of the generic terms “accountant” or “accounting” by unlicensed individuals is *potentially* misleading to the public. Although appellants *concede* that a state may implement a less restrictive alternative than an outright ban in order to remedy the harmful effects on the public of potentially misleading professional advertising, they urge that such is a legislative prerogative, that California’s Legislature has never implemented any such regulation, and that a court may not “rewrite” a statute absent clear legislative intent.^{FN2}

^{FN2}. The Center for Public Interest Law, the NSPA, and the California Society of Enrolled Agents, have each filed amicus curiae briefs in support of the position taken by appellants. In addition, this court is in receipt of numerous letters in support of appellants from unlicensed individuals and businesses that practice bookkeeping and offer basic accounting and tax preparation services to the public.

Respondent in turn argues *Hill* was correctly decided and should be deemed controlling here, i.e., that the use of the terms “accountant” or “accounting,” whether qualified or standing alone, by unlicensed persons offering their services to the public for compensation, is statutorily prohibited. In particular, respondent points to the language of [section 5058](#) that prohibits unlicensed persons from using *any* title or designation “likely to be confused” with the two official terms denoting licensure (“certified public accountant” and “public accountant”). The generic terms “accountant” and “accounting,” respondent asserts, are titles “likely to be confused” with those official terms, and are thus subject to [section 5058](#)’s prohibition.

Respondent contends the Accountancy Act, thusly construed, passes constitutional ***364 **804 muster. Relying on the California Poll survey evidence which, respondent claims, established that an unlicensed person’s use of the generic terms in fact misleads the public, respondent concludes the use of such titles *1010 constitutes misleading advertising that is not subject to First Amendment protection, and may be banned entirely by the state. (See [In re R.M.J. \(1982\) 455 U.S. 191, 203, 102 S.Ct. 929, 937, 71 L.Ed.2d 64.](#))

II

At the threshold, it is undisputed that the Legislature, in the public interest and in furtherance of the general welfare, is empowered to regulate the profession of public accountancy. (See, e.g., 1 Am.Jur.2d, Accountants (1962) [§ 2.](#)) California’s first entry into the regulation of the profession came in 1901, when the Legislature established a five-member State Board of Accountancy, and vested in it the power to examine applicants, and grant certificates of qualification to practice public accountancy. (Stats.1901, ch. 213, p. 645.) The regulatory scheme underwent a major revision in 1945, and the Board was expanded to seven members. (Stats.1945, ch. 1353, § 2, pp. 2529–2545.) Presently, the Board consists of 12 members, 8 of them state-licensed accountants, and 4 public members. ([§ 5000.](#)) It is empowered, among other things, to adopt regulations as may be reasonably necessary to administer the Accountancy Act ([§ 5010](#)), and to adopt rules of professional conduct governing its licensees. ([§ 5018.](#)) The Board is also authorized to seek injunctions against persons who have engaged or are about to engage in conduct or practices which violate the Accountancy Act. ([§ 5122.](#))

Under the present California licensing scheme, certified public accountants must satisfy rigorous educational, experience, and examination requirements prior to obtaining licensure. Applicants must take and pass a written examination in accounting theory and practice, auditing, commercial law as affecting accountancy, and other related subjects. ([§ 5082.](#)) They may be denied a license (or a licensee’s license may be suspended or revoked, or renewal of a license refused) if they have committed certain crimes, committed an act of fraud or dishonesty, or done other specified acts which would be cause for discipline by the Board. ([§§ 480, 5081, 5100.](#)) The Board’s licen-

sees must adhere to professional standards and continuing education requirements in order to maintain licensure; noncompliance with such professional standards or other licensure requirements can lead to suspension, revocation, or refusal to renew a license. (§ 5100.)

In contrast, the Board's enforcement activities against *unlicensed persons* engaged in the practice of public accountancy are limited to responding to those consumer complaints over which it has jurisdiction. It has jurisdiction over complaints involving unlicensed persons holding themselves out to the public as licensed accountants. It has no jurisdiction over complaints involving the quality of "accounting" work or services performed by nonlicensees. *1011 Section 5050 provides that "No person shall engage in the practice of public accountancy in this State unless such person is the holder of a valid permit to practice public accountancy issued by the board [.]". According to the testimony of the executive officer of the Board, violators of section 5050 may be referred to the Division of Investigation, a state agency, for investigation and possible referral to the local district attorney's office for civil or criminal prosecution, but the Board itself is not empowered to "prosecute" unlicensed persons for the unlawful practice of public accountancy.

Accordingly, for purposes of our analysis herein, the term "unlicensed person" includes *any* person who does not hold a valid permit issued by the Board to practice public accountancy. It includes persons, like appellant Bonnie Moore, who, the Board concedes, can meet the educational eligibility requirements for the CPA examination but not the experience requirement for licensure. It would also include persons without any formal educational background or experience in the accounting profession whatsoever, who nonetheless attempt to seek compensation from members of the public for the rendering of "accounting"***365 **805 services. And it would include a former Board licensee who, due to a breach of professional ethics or the commission of a crime or act of fraud or dishonesty, has had his or her license revoked by the Board. All such persons, although unlicensed, may nonetheless seek to offer to the public for compensation a limited category of basic accounting services "*as a part of bookkeeping operations.*" (§ 5051, subd. (f), italics added; § 5052.) ^{FN3}

^{FN3}. Section 5052, commonly referred to as the "bookkeeping exception," provides: "Nothing in this chapter shall apply to any person who as an employee, independent contractor, or otherwise, contracts with one or more persons, organizations, or entities, for the purpose of keeping books, making trial balances, statements, making audits or preparing reports, *all as a part of bookkeeping operations*, provided that such trial balances, statements, or reports are not issued over the name of such person as having been prepared or examined by a certified public accountant or public accountant." (Italics added.)

With this background in mind, we turn to the principal statute at issue in this case, [section 5058](#). [Section 5058](#) provides, in pertinent part: "No person or partnership shall assume or use the title or designation 'chartered accountant,' 'certified accountant,' 'enrolled accountant,' 'registered accountant' or 'licensed accountant,' or any other title or designation likely to be confused with 'certified public accountant' or 'public accountant,' or any of the abbreviations 'C.A.,' 'E.A.,' 'R.A.,' or 'L.A.,' or similar abbreviations likely to be confused with 'C.P.A.' or 'P.A.' ..." ^{FN4}

^{FN4}. The above quoted portion of [section 5058](#) is identical to the text of its 1945 predecessor statute (former § 5065).

Appellants urge us to invoke the principle of statutory construction known by the Latin names *eiusdem generis* and *noscitur a sociis*; that when *1012 a statute contains a list or catalogue of items, a court should determine the meaning of each by reference to the others, giving preference to an interpretation that uniformly treats items similar in nature and scope. (See [People v. Rogers \(1971\) 5 Cal.3d 129, 142, 95 Cal.Rptr. 601, 486 P.2d 129](#) [conc. & dis. opn. of Mosk, J.]; [Armenta v. Churchill \(1954\) 42 Cal.2d 448, 454, 267 P.2d 303](#); [People v. Thomas \(1945\) 25 Cal.2d 880, 899–900, 156 P.2d 7](#); [Treasure I.C. Co. v. St. Bd. of Equal. \(1941\) 19 Cal.2d 181, 188, 120 P.2d 1](#); see generally, 2A Sutherland, Statutory Construction (4th ed. 1984) §§ 47.16–47.22, pp. 161–193.) In accordance with this principle of construction, a court will adopt a restrictive meaning of a listed item if acceptance of a more expansive meaning would make

other items in the list unnecessary or redundant, or would otherwise make the item markedly dissimilar to the other items in the list. (See *Harris v. Capital Growth Investors XIV* (1991) 52 Cal.3d 1142, 1159–1160, 278 Cal.Rptr. 614, 805 P.2d 873; *Peralta Community College Dist. v. Fair Employment & Housing Com.* (1990) 52 Cal.3d 40, 50, 276 Cal.Rptr. 114, 801 P.2d 357; *Dyna-Med, Inc. v. Fair Employment & Housing Com.* (1987) 43 Cal.3d 1379, 1390–1391, 241 Cal.Rptr. 67, 743 P.2d 1323.)

Appellants point to the fact that [section 5058](#) contains a list of titles that, the Legislature has determined, are designations “likely to be confused” with the two titles reserved to Board-licensed accountants: “certified public accountant” and “public accountant.” Each of the five expressly prohibited titles is comprised of the generic term “accountant” coupled with a modifier. Appellants urge that if the Legislature deemed the unadorned generic term “accountant” a title “likely to be confused” by the public with the two official designations denoting licensure, its unmodified use would have been expressly prohibited in [section 5058](#).

Respondent urges us to instead focus on [section 5058](#)'s catchall language prohibiting an unlicensed person's use of “any other title or designation likely to be confused with [the two official terms denoting licensure]....” The generic terms “accountant” and “accounting” services are two such confusing designations, argues respondent, and thus the statute should be construed to include the use of the unadorned generic terms within the statutory ban.

***366 **806 [1] In construing a statute a court's objective is to ascertain and effectuate the underlying legislative intent. (*People v. Woodhead* (1987) 43 Cal.3d 1002, 1007, 239 Cal.Rptr. 656, 741 P.2d 154.) This fundamental rule overrides the *ejusdem generis* doctrine, just as it would any maxim of jurisprudence, if application of the doctrine or maxim would frustrate the intent underlying the statute. (*Civ.Code*, § 3509; *1013 *Larcher v. Wanless* (1976) 18 Cal.3d 646, 658, 135 Cal.Rptr. 75, 557 P.2d 507; *Irwin v. City of Manhattan Beach* (1966) 65 Cal.2d 13, 21, 51 Cal.Rptr. 881, 415 P.2d 769; *Matter of La Societe Francaise etc.* (1899) 123 Cal. 525, 530–531, 56 P. 458; *Worthington v. Unemployment Ins. Appeals Bd.* (1976) 64 Cal.App.3d 384, 388, 134 Cal.Rptr. 507; *Coleman v. City of Oakland* (1930) 110 Cal.App.

[715, 295 P. 59.](#))

[2] We are not persuaded that the approach of either party is consistent with the legislative intent reflected in [section 5058](#). Application of the doctrine of *ejusdem generis* would be inappropriate in this context. The Legislature used all-encompassing language in banning not only the expressly identified designations but also “any other title or designation that is likely to be confused with ‘certified public accountant’ or ‘public accountant.’ ” (§ 5058, emphasis added.) Appellants' construction of [section 5058](#) would require us to assume that notwithstanding that broad prohibition of potentially confusing titles, use of the unmodified terms “accountant” and “accounting” was permissible regardless of whether that use was then or proved at some later date to be “likely confused with” licensed status, i.e., that use of those terms was to be permitted no matter how misleading they were. That construction cannot be reconciled with the clear purpose of the statute—ensuring that members of the public who seek the services of a licensed accountant are not misled regarding the status of the person who provides accounting services.

We agree with appellants, however, that [section 5058](#) does not itself expressly prohibit the use of the unmodified terms “accountant” and “accounting.” To read the section in that manner would render the identification of the specific terms which were banned surplusage, since the ban on “any ... title or designation likely to be confused with ‘certified public accountant’ or ‘public accountant’ ” encompasses those terms. The Legislature therefore had some other purpose for both identifying specific terms that are not to be used and banning other potentially misleading designations that it did not identify. Since that purpose could not have been to permit the use of misleading terms, it is reasonable to conclude that when the statute was amended in 1945 the Legislature was aware that the titles or designations it specifically identified were or had been in use and were misleading. Recognizing that other terms it had not then identified as misleading could be so, or might become misleading in the future, however, the Legislature made provision for that possibility by prohibiting the use of “any” misleading term.

Inasmuch as enforcement of the provisions of the Accountancy Act, including [section 5058](#), is entrusted to the Board, it seems apparent that the *1014 Legis-

lature delegated to the Board the authority to determine whether a title or designation not identified in the statute is likely to confuse or mislead the public. Since the Board was also authorized to seek an injunction against the use of such terms, its authority to “adopt, repeal, or amend such regulations as may be reasonably necessary and expedient for the ... administration of [the Accountancy Act]” (§ 5010) includes the power to identify by regulation those terms which it finds are “likely to be confused with ‘certified public accountant’ or ‘public accountant,’ ” the use of which may be enjoined under the broad prohibition of [section 5058](#). To conclude otherwise would contravene the intent and purpose behind the statute.

In 1948, the Board exercised its authority to identify other potentially misleading designations that were subject to the catchall prohibition of what was then section 5065 (the predecessor statute to [§ 5058](#), identical in all respects relevant here) by the adoption of Regulation 2, which provides:

***367 ***807 “[§ 2 Confusing Titles](#)

“The following are titles or designations likely to be confused with the titles Certified Public Accountant and Public Accountant within the meaning of [Section 5058 of the Business and Professions Code](#):

“(a) ‘Accountant,’ ‘auditor,’ ‘accounting,’ or ‘auditing,’ when used either singly or collectively or in conjunction with other titles.

“(b) Any other titles or designations which imply that the individual is engaged in the practice of public accountancy.”

In considering whether Regulation 2 is a valid exercise of the Board's power to adopt regulations necessary for the administration of the Accountancy Act, and in particular [section 5058](#),^{FN5} “our task is to inquire into the legality of the ... regulation, not its wisdom. (*Morris v. Williams* (1967) 67 Cal.2d 733, 737 [63 Cal.Rptr. 689, 433 P.2d 697]) ... [I]n reviewing *1015 the legality of a regulation adopted pursuant to a delegation of legislative power, the judicial function is limited to determining whether the regulation (1) is ‘within the scope of the authority conferred’ (Gov.Code, [former] § 11373 [see current [Gov.Code § 11342.1](#)]) and (2) is ‘reasonably necessary to effectuate the purpose of the statute’

([Gov.Code, \[former\] § 11374](#) [see current [Gov.Code § 11342.2](#)]). [Fn. omitted.] Moreover, ‘these issues do not present a matter for the independent judgment of an appellate tribunal; rather, both come to this court freighted with the strong presumption of regularity accorded administrative rules and tions.’ (*Ralphs Grocery Co. v. Reimel* (1968) 69 Cal.2d 172, 175 [70 Cal.Rptr. 407, 444 P.2d 79].) And in considering whether the regulation is ‘reasonably necessary’ under the foregoing standards, the court will defer to the agency's expertise and will not ‘superimpose its own policy judgment upon the agency in the absence of an arbitrary and capricious decision.’ (*Pitts v. Perluss* (1962) 58 Cal.2d 824, 832 [27 Cal.Rptr. 19, 377 P.2d 83].)” (*Agricultural Labor Relations Bd. v. Superior Court* (1976) 16 Cal.3d 392, 411, 128 Cal.Rptr. 183, 546 P.2d 687.)

[FN5](#). The Board's Regulation 2 was placed in issue in this case through the parties' pleadings in the trial court. Appellants alleged in their complaint for declaratory relief that, “The Board has taken the position that any use of the terms ‘accountant’ or ‘accounting’ by a non-licensed accountant is a violation of [Business and Professions Code Section 5058](#)...” Respondent Board countered the allegation in its answer as follows: “[D]efendant admits that the Board has taken the position, based on statutory and case law, that unlicensed persons may not legally use the terms ‘accounting’ or ‘accountant’ in describing themselves or their services... Further answering [the allegation,] defendant affirmatively alleges that the Board has duly adopted and filed a regulation (Title 16, California [Code of Regulations,] section 2(a)) stating that the terms ‘accountant,’ ‘auditor,’ ‘accounting,’ or ‘auditing’ are titles or designations likely to be confused with the titles Certified Public Accountant and Public Accountant within the meaning of [Business and Professions Code section 5058](#).”

The promulgation of Regulation 2, which implements the catchall language of [section 5058](#), appears well within the authority conferred on the Board by the Legislature to “adopt ... such regulations as may be reasonably necessary and expedient for the ... administration of [the Accountancy Act].” ([§ 5010](#).) Furthermore, Regulation 2's declaration—that the

generic terms “accountant” and “accounting” are themselves titles or designations likely to be confused with “certified public accountant” and “public accountant”—appears reasonably necessary to effectuate the purpose and intent behind [section 5058](#): the protection of the public from the unlicensed practice of public accountancy through the elimination of any likelihood of confusion from the use of potentially misleading or confusing titles. The results of the California Poll survey evidence introduced in this case tend to bear this out.

The following two questions were asked of those responding to the poll: (1) “Do you think that persons who refer to themselves as accountants in advertising to the public are required to be licensed by the State of California?,” and (2) “Do you think persons who advertise accounting services to the public are required to be licensed by the State of California to offer such services?”

The results of the poll with respect to the first question indicated that 55 percent of ***368 **808 those surveyed believed a person who advertised as an “accountant” had to be licensed, 26 percent did not believe a license was required, and 19 percent did not know. The results of the second question indicated *1016 that 53 percent believed that a person who advertised “accounting services” to the public was required to be licensed by the state, 29 percent did not believe a license was required, and 18 percent did not know.

The survey responses, at the very least, support the inference that members of the public who believe that licensing is required would assume that a person who uses the title “accountant” and the designation “accounting” to describe the services offered is licensed by the state.^{FN6}

[FN6](#). We do not, in this regard, mean to suggest that the response to a public opinion poll is itself an appropriate basis for “deciding an issue of statutory construction.” (See dis. opn. of George, J., *post*, at pp. 379–380, and fn. 7, of [9 Cal.Rptr.2d at pp. 819–820](#), and fn. 7, of [831 P.2d](#); dis. opn. of Mosk, J., *post*, at p. 375 of [9 Cal.Rptr.2d](#), at p. 815 of [831 P.2d](#).) Obviously, the Legislature did not have the results of this opinion poll before it upon enacting [section 5058](#). What

must be determined is whether the Board could reasonably conclude that use of the unmodified terms “accountant and accounting services,” as a factual matter, is misleading or potentially misleading to the public’s detriment, and if so, whether the Legislature nonetheless intended to exclude those terms from the scope of the prohibitory catchall language when it enumerated a list of specifically prohibited titles which utilize the term “accountant” in conjunction with modifiers.

The survey evidence introduced below merely informs us as to the first, factual inquiry. By analogy, in change of venue cases, survey evidence is often admitted as probative of the determination whether prevailing community attitudes warrant a change of venue. (See, e.g., [Frazier v. Superior Court \(1971\) 5 Cal.3d 287, 293–294, fn. 6, 95 Cal.Rptr. 798, 486 P.2d 694](#); see also [James Burrough Ltd. v. Sign of Beefeater, Inc. \(7th Cir.1976\) 540 F.2d 266, 277–278](#) [results of plaintiff-distiller’s face-to-face survey of 500 households admissible in trademark infringement action to establish “likelihood of confusion, deception or mistake” among consuming public regarding defendant’s use of plaintiff’s registered “Beefeater” mark].) Indeed, at trial respondent introduced evidence of a similar poll taken in Texas in 1985. In the Texas poll, 62 percent of those responding to the survey answered “yes” when asked whether people who advertise as “accountants” are required to be licensed by the State of Texas; 19 percent said “no”; and 19 percent did not know. Michael Hagen, a specialist in the analysis of public opinion research data, testified that in his opinion the data from the Texas poll could inform the conclusions to be drawn from the California poll because of the similarity of responses to comparable questions and the similarity of certain demographic factors in each of the surveys. Based on his review and analysis of the data from the California and Texas polls, Hagen concluded that a majority of Californians believe persons who advertise as “accountants” are required to hold at

least a college degree, take a qualifying examination, and be licensed by the state.

We also note that, at oral argument, regarding the circumstance of licensed and unlicensed persons alike using the title “accountant,” counsel for appellants readily acknowledged, “There is a possibility that the public might be misled.”

In a somewhat analogous context—attorney advertising—it has been observed that special considerations apply to advertising by professionals: “[I]t has been noted that special considerations apply to advertising by lawyers because they ‘do not dispense standardized products; they render professional services of almost infinite variety and nature, with the consequent enhanced possibility for confusion and deception if they were to undertake certain kinds of advertising.’ (*Va. Pharmacy Board v. Va. Consumer Council* (1976) 425 U.S. 748, 773, fn. 25 [96 S.Ct. 1817, 1831, fn. 25, 48 L.Ed.2d 346].) This *1017 court analyzed the above quoted language in *Jacoby v. State Bar* (1977) 19 Cal.3d 359 [138 Cal.Rptr. 77, 562 P.2d 1326]. Writing for the court, Justice Mosk explained that the footnote ‘stands for the proposition that while the First Amendment values in commercial advertising remain constant regardless of the profession involved, the governmental regulatory interest may vary from profession to profession.’ (*Id.*, at p. 377 [138 Cal.Rptr. 77, 562 P.2d 1326].)” (*Leoni v. State Bar* (1985) 39 Cal.3d 609, 625, 217 Cal.Rptr. 423, 704 P.2d 183.)

As the court in *Texas State Board of Public Accountancy v. Fulcher* (Tex.Civ.App.1974) 515 S.W.2d 950 observed nearly two decades ago: “[T]he need to protect the public against fraud, deception [and] the consequences of ignorance or incompetence***369 **809 in the practice of most professions makes regulation necessary. The state may exact the requisite degree of skill and learning in professions which affect the public, or at least a substantial portion of the public, such as the practice of law, medicine, engineering, dentistry, and many others. The [accountancy] Act before us recognizes public accountancy as one of such professions. Public accountancy now embraces many intricate and technical matters dealing with many kinds of tax laws, unfair trade practices, rate regulations, stock exchange regulations, reports required by many governmental agencies,

financial statements and the like.” (*Id.*, at pp. 954–955.)

These observations apply with even more force to the practice of the profession of public accountancy in the 1990’s. We conclude that the Board’s determination, embodied in Regulation 2, that the terms “accountant” and “accounting” are titles or designations likely to be confused with the official titles denoting licensure, is consistent with the intent and purpose behind [section 5058](#) and the provisions of the related statutes, and is “reasonably necessary” to effectuate the purpose and intent underlying the legislation. (*Pitts v. Perluss* (1962) 58 Cal.2d 824, 832, 27 Cal.Rptr. 19, 377 P.2d 83.)

[3] As further evidence that Regulation 2 is consistent with the legislative intent behind [section 5058](#), it is significant that in the nearly half a century since the Board adopted the regulation, shortly after enactment of the statutory provision, the Legislature has not sought to amend [section 5058](#) to defeat the Board’s interpretation of the scope of its authority under [section 5058](#). Although the Legislature twice amended [section 5058](#), first in 1959 (Stats.1959, ch. 310, § 42, p. 2228) and again in 1979 (Stats.1979, ch. 25, § 1, p. 70), the substantive provisions with which we are here concerned have remained *unchanged* in the 44 years since the Board adopted Regulation 2. In this regard, a presumption that the Legislature is aware of an administrative construction of a statute should be applied if the agency’s *1018 interpretation of the statutory provisions is of such longstanding duration that the Legislature may be presumed to know of it. (*Robinson v. Fair Employment & Housing Com.* (1992) 2 Cal.4th 226, 235, fn. 7, 5 Cal.Rptr.2d 782, 825 P.2d 767; *El Dorado Oil Works v. McColgan* (1950) 34 Cal.2d 731, 739, 215 P.2d 4.)

Such a presumption should also be applied on a showing that the construction or practice of the agency has been made known to the Legislature. (*Robinson v. Fair Employment & Housing Com.*, *supra*, 2 Cal.4th at p. 235, fn. 7, 5 Cal.Rptr.2d 782, 825 P.2d 767; *Pacific Greyhound Lines v. Johnson* (1942) 54 Cal.App.2d 297, 303, 129 P.2d 32.) To this end we note that in 1965, an assemblyman from the Third Assembly District requested an opinion from the California Attorney General as to whether a member of the public, who is not licensed as a certified public accountant or public accountant to practice accounting

in California, is in violation of the Accountancy Act when he or she uses the word “accounting” on a building directory or on an office door. The Attorney General’s conclusion was that: “The use of the word ‘accounting’ on a building directory and an office door by an unlicensed individual is a representation to the public that such individual is skilled in accounting and that the user is qualified and ready to perform professional services. Such a representation by an unlicensed individual is in violation of the Accountancy Act....” (46 Ops.Cal.Atty.Gen. 140, 141 (1965).)

Finally, the Legislature may also be presumed to have been aware of the decision filed in 1977 in *Hill, supra*, 66 Cal.App.3d 320, 136 Cal.Rptr. 30, the only published California case to have addressed the right of an unlicensed person to use the terms in issue here. The *Hill* court concluded that use of a business name “A–Accounting—Jack M. Hill & Co.” violated section 5050, and affirmed an order granting a preliminary injunction against use of the words “accountant” and “accounting” by the defendant in conjunction with his business title.

***370 **810 Section 5050 prohibits the practice of public accountancy by an unlicensed person. The *Hill* court reasoned that by use of the name in issue the defendant was holding himself out to the public as being engaged in the provision of professional accounting services. That conduct constituted the practice of public accountancy as defined in section 5051. “[T]he use of the title ‘A–Accounting’ like the use of the word ‘accounting’ on the building directory and office door can only be interpreted to mean that he is representing to the public that he is skilled in the practice of accounting and is qualified and ready to provide accounting services to the public, a *1019 representation that an unlicensed person is prohibited from doing.” (*Hill, supra*, 66 Cal.App.3d at 329, 136 Cal.Rptr. 30.)

The *Hill* court recognized that an unlicensed person is permitted by law to offer certain basic accounting services to the public for compensation *when offered in connection with bookkeeping operations* (see §§ 5051, subd. (f), 5052), but concluded nonetheless that because the public may be misled concerning whether such a person *is licensed* when he or she uses the title “accountant” or the term “accounting services,” use of those terms could be enjoined under the Accountancy Act. (66 Cal.App.3d at pp. 328–330,

136 Cal.Rptr. 30.)^{FN7} While the *Hill* court relied on sections 5050 and 5051, rather than [section 5058](#) and Regulation 2 in upholding the injunction against use of the title “accountant” and term “accounting” by an unlicensed person in describing services offered to the public, the Legislature is presumed to be aware of that decision and to have acquiesced in the result, one identical to the result under Regulation 2 and the trial court ruling in this case.

^{FN7}. The Court of Appeal below also cited the case of *Chen Chi Wang v. United States* (9th Cir.1985) 757 F.2d 1000, as further authority consistent with the analysis and conclusions reached in *Hill, Chen Chi Wang* involved a taxpayer’s attempt to quash an Internal Revenue Service summons issued to the financial services organization which had prepared the taxpayer’s tax returns. At issue was a treasury regulation defining “accountant” for purposes of a statutory notice requirement for subpoenas issued to third party record keepers. (26 U.S.C. § 7609.) In determining that an accountant who is “registered, licensed, or certified under State law” falls under the definition of third party record keeper within the meaning of the treasury regulation, the *Chen Chi Wang* court relied on *Hill, supra*, 66 Cal.App.3d 320, 136 Cal.Rptr. 30, for the proposition that, in California, only licensees under state law may represent themselves to the public as accountants. (757 F.2d at p. 1003.) The court went on to observe that, “The fact that a person performs some of the functions of an accountant (e.g., tax preparation) does not make that person an accountant if he or she is unlicensed, just as the fact that a person performs some of the functions of an attorney (a bank officer drafts a will; an insurance officer drafts an insurance contract) does not make that person an attorney.” (757 F.2d at p. 1003.)

In sum, we conclude that by inclusion of the catchall language in [section 5058](#), the Legislature plainly intended that the enumerated list of five prohibited titles *not* be deemed an exclusive one. The Board’s determination, embodied in Regulation 2, that the generic terms “accountant” and “accounting” fall within the legislatively defined class of titles or des-

ignations “likely to confuse the public,” appears reasonably necessary to effectuate the purpose and intent underlying [section 5058](#). Pursuant to [section 5010](#), Regulation 2 is well within the scope of the rulemaking authority conferred upon the Board to “adopt ... such regulations as may be reasonably necessary ... for the ... administration of [the Accountancy Act].” Moreover, for the reasons discussed, the Legislature may also be presumed to have acquiesced in the Board's long standing interpretation of [section 5058](#). The regulatory scheme thus validly prohibits unlicensed persons from using the *1020 generic terms “accountant” or “accounting” standing alone, or in combination with other words that comprise a title or designation “likely to be confused” with the official titles reserved to the Board's licensees.^{FN8}

FN8. Justice George draws a contrary conclusion respecting the legislative intent behind [section 5058](#) and the related statutory provisions. His analysis appears grounded on a restrictive reading of those provisions of the act which define the practice of “public accountancy” and thereby circumscribe the Board's jurisdiction. (§§ 5051, 5052.) He interprets the statutory scheme as creating a “special class of accountants comprised of certified public accountants and public accountants,” who are in turn a subgroup of the broader class of accountants. (Dis. opn. of George, J., *post*, at p. 376 of 9 Cal.Rptr.2d, at p. 816 of 831 P.2d.) According to Justice George's analysis, the unlicensed members of this class of accountants are “authorized ... to perform a wide range of accounting services....” (*Ibid.*) In short, under Justice George's interpretation of the statutory scheme, the majority of these unlicensed accountants fall *outside* the regulatory jurisdiction of the Board. With all due respect, this interpretation appears to us to belie the legislative intent underlying the regulatory scheme.

Justice George further reasons that because section 5051, the key provision defining the practice of public accountancy, permits an unlicensed person to perform many of the tasks that are also performed by licensed accountants “[as long as] he or she does not hold himself or herself out, solicit,

or advertise for clients using the certified public accountant or public accountant designation,” that person may use the title “accountant.” (Dis. opn. of George, J., *post*, at pp. 377, 378 of 9 Cal.Rptr.2d, at pp. 817, 818 of 831 P.2d.) Such an interpretation, however, essentially begs the question posed in this case: whether use of the terms “accountant” or “accounting” services, by virtue of their potential likelihood to be confused with the official titles denoting licensure, is tantamount to holding oneself out to the public “as qualified and ready to render professional service ... as a public accountant for compensation.” (§ 5051, subd. (a).)

*****371 **811 III**

The Court of Appeal in this case reached substantially the same conclusion in construing the scope of [section 5058](#),^{FN9} and went on to hold: “The rulings by the United States Supreme Court in [Virginia Pharmacy \[Va. Pharmacy Bd. v. Va. Consumer Council \(1975\) 425 U.S. 748, 96 S.Ct. 1817, 48 L.Ed.2d 346\]](#) and [Bates \[v. State Bar of Arizona \(1977\) 433 U.S. 350, 97 S.Ct. 2691, 53 L.Ed.2d 810\]](#) make it clear that to satisfy the First Amendment, we must permit the use of [the generic terms ‘accountant’ and ‘accounting’] if they are qualified by a warning or disclaimer that avoids their misleading impact.”

FN9. The Court of Appeal did not rely on Regulation 2 or consider its validity, holding only that because the terms “Accountant” and “Accounting” are misleading to the public they may not be used by unlicensed persons.

Respondent urges that [section 5058](#), as interpreted by the Board in Regulation 2, prohibits *any and all use* of the generic terms “accountant” and “accounting” by unlicensed persons. As stated in respondent's brief on the merits, “[The Court of Appeal] decision did not go far enough by failing to unqualifiedly affirm the state's prohibition of the misleading terms in question rather than permitting unlicensed persons to use disclaimer language qualifying such terms.” We disagree.

***1021** The First Amendment cases do not question the authority of the state to regulate misleading

advertising. In *In re R.M.J.*, *supra*, 455 U.S. 191, 102 S.Ct. 929, 71 L.Ed.2d 64, a case dealing with lawyers' First Amendment commercial speech rights in the advertising of their services to the public, the United States Supreme Court explained:

“Commercial speech doctrine, in the context of advertising for professional services, may be summarized generally as follows: Truthful advertising related to lawful activities is entitled to the protections of the First Amendment. But when the particular content or method of the advertising suggests that it is inherently misleading or when experience has proved that in fact such advertising is subject to abuse, the States may impose appropriate restrictions. Misleading advertising may be prohibited entirely. But the States may not place an absolute prohibition on certain types of potentially misleading information, *e.g.*, a listing of areas of practice, if the information may also be presented in a way that is not deceptive. Thus, the Court in *Bates v. State Bar of Arizona*, *supra*, 433 U.S. 350, 97 S.Ct. 2691, 53 L.Ed.2d 810 suggested that the remedy in the first instance is not necessarily a prohibition but preferably a requirement of disclaimers or explanation. 433 U.S., at 375 [97 S.Ct. at 2704]. Although the potential for deception and confusion is particularly strong in the context of advertising professional services, restrictions upon such advertising may be no broader than reasonably necessary to prevent the deception.” (*In re R.M.J.*, *supra*, 455 U.S. at p. 203, 102 S.Ct. at p. 937.)

The high court's most recent commercial speech decisions have consistently applied ***372 **812 the holding of *In re R.M.J.*, *supra*. Thus, in *Peel v. Attorney Disciplinary Comm'n. of Ill.* (1990) 496 U.S. 91, 110 S.Ct. 2281, 110 L.Ed.2d 83 it was held that an attorney holding a “Certificate in Civil Trial Advocacy” from the “National Board of Trial Advocacy” could not be enjoined by the State of Illinois, which had no similar officially sanctioned certification program of its own, from advertising on his letterhead the truthful fact of his “certification” by that organization. Following its decisions in *Bates v. State Bar of Arizona*, *supra*, 433 U.S. 350, 97 S.Ct. 2691, 53 L.Ed.2d 810, and *In re R.M.J.*, *supra*, 455 U.S. 191, 102 S.Ct. 929, 71 L.Ed.2d 64, the court concluded that Attorney Peel's letterhead was entitled to First Amendment protection since the facts stated thereon were “true and verifiable.” (110 S.Ct. at p. 2288.)

The high court in *Peel* explained further: “Even if we assume that petitioner's letterhead may be potentially misleading to some consumers, that potential does not satisfy the State's heavy burden of justifying a categorical prohibition against the dissemination of accurate factual information to the public. *In re R.M.J.*, *supra*, 455 U.S., at 203 [102 S.Ct. at 937].” (*Peel v. Attorney Disciplinary Comm'n. of Ill.*, *supra*, 110 S.Ct. at p. 2292.) The court went on to conclude:

*1022 “To the extent that potentially misleading statements of private certification or specialization could confuse consumers, a State might consider screening certifying organizations or requiring a disclaimer about the certifying organization or the standards of a specialty. *In re R.M.J.*, [*supra*,] 455 U.S., at 201–203 [102 S.Ct. at 936–937]. A State may not, however, completely ban statements that are not actually or inherently misleading....” (*Peel v. Attorney Disciplinary Comm'n. of Ill.*, *supra*, 110 S.Ct. at pp. 2292–2293, fn. omitted; accord *Bates v. State Bar of Arizona*, *supra*, 433 U.S. at p. 384, 97 S.Ct. at p. 2709; *Va. Pharmacy Board v. Va. Consumer Council*, *supra*, 425 U.S. 748, 771–772, 96 S.Ct. 1817, 1830–1831, 48 L.Ed.2d 346.)^{FN10}

FN10. Appellants cite the Eleventh Circuit's recent opinion in *Abramson v. Gonzalez* (11th Cir.1992) 949 F.2d 1567 (*Gonzalez*), as supportive of their claim that they must be permitted to use the generic terms “accountant” or “accounting services” without any restriction. *Gonzalez* addressed the question of whether the State of Florida could ban unlicensed practitioners of psychology from holding themselves out to the public as “psychologists,” consistent with First Amendment commercial speech doctrine. Relying principally on the high court's opinion in *Peel v. Attorney Disciplinary Comm'n. of Ill.*, *supra*, 110 S.Ct. 2281, the *Gonzalez* court concluded Florida's statute placed an unconstitutional restraint on the commercial speech rights of that state's unlicensed psychologists.

Critically, however, under the present state of the law in Florida, *anyone* can practice psychology without a license. That law is slated to change on October 1, 1995, after

which date the profession of psychology in Florida will be *entirely circumscribed* by the Florida Department of Regulation. This anomaly was not lost on the [Gonzalez](#) court, which observed: “Florida, at least until October 1, 1995, does not require a license for the practice of psychology. The license granted to those who meet certain educational and professional requirements then, is not so much a license to practice as it is a license to speak and advertise.” (949 F.2d at p. 1573.) The court concluded: “We hold that as long as Florida has not restricted the practice of psychology, the state may not prevent the plaintiffs from calling themselves psychologists in their commercial speech. If they are allowed to practice psychology, as they apparently are until October 1, 1995 when the law changes, they must be allowed to say truthful things about their work. As long as the plaintiffs do not hold themselves out as *licensed* professionals, they are not saying anything untruthful, for they are in fact psychologists and are permitted to practice that profession under current state law.” (*Id.*, at p. 1576, italics in original.)

The relevant commercial speech principles invoked in [Gonzalez](#), *supra*, 949 F.2d 1567, apply in equal fashion to this case. The holding of [Gonzalez](#) is plainly distinguishable, however, because here the statutory scheme under scrutiny has, as its very purpose, the regulation of the profession of public accountancy; its provisions circumscribe those functions which fall within the definition of “public accountancy” and are thereby expressly reserved to the Board’s licensees.

We believe the Maryland Court of Appeals in [Comprehensive, etc. v. Maryland State Bd.](#) (1979) 284 Md. 474, 397 A.2d 1019, correctly applied the commercial speech principles first announced by the high court in [Va. Pharmacy Board v. Va. Consumer Council](#), *supra*, 425 U.S. 748, 96 S.Ct. 1817, 48 L.Ed.2d 346 and ***373**813 [Bates v. State Bar of Arizona](#), *supra*, 433 U.S. 350, 97 S.Ct. 2691, 53 L.Ed.2d 810, to the arena of state regulation of the profession of accountancy. In that case, the Compre-

hensive Accounting Service Company, which did not hold an enrollment *1023 certificate to practice public accounting in Maryland, challenged a Maryland statute that provided no person, partnership or corporation not holding an enrollment certificate “ ‘shall practice or hold himself or itself out to the public as “accountant” or “auditor” in connection with his own or any other name, nor describe or designate the services offered or performed by him or it as “accounting” or “auditing,” with or without any other designation or description....’ ” (397 A.2d at p. 1020.) Comprehensive Accounting Service Company argued that Maryland’s express statutory ban unconstitutionally abridged its right of free speech because the statute prevented uncertified persons, who were otherwise permitted to perform ordinary accounting work under that state’s so-called “bookkeeping exception,” from advertising the true nature of their services.

Invoking the rationale of the United States Supreme Court’s decisions in [Va. Pharmacy Board v. Va. Consumer Council](#), *supra*, 425 U.S. 748, 96 S.Ct. 1817, 48 L.Ed.2d 346, and [Bates v. State Bar of Arizona](#), *supra*, 433 U.S. 350, 97 S.Ct. 2691, 53 L.Ed.2d 810, the [Comprehensive](#) court concluded that the State of Maryland could not, consistent with the First Amendment, completely suppress the dissemination of truthful information about an entirely lawful business activity. ([Comprehensive, etc. v. Maryland St. Bd.](#), *supra*, 397 A.2d at pp. 1023–1027.) But the [Comprehensive](#) court also acknowledged the high court’s recognition in [Va. Pharmacy Board v. Va. Consumer Council](#), *supra*, and [Bates v. State Bar of Arizona](#), *supra*, that, “in some cases it may be ‘appropriate to require that a commercial message appear in such a form, or include such additional information, warning, and disclaimers as are necessary to prevent its being deceptive.’ ” (397 A.2d, at p. 1025, quoting [Va. Pharmacy Board v. Va. Consumer Council](#), *supra*, 425 U.S. at pp. 771–772, fn. 24, 96 S.Ct. at pp. 1830–1831, fn. 24.)

[4] As the rulings by the United States Supreme Court in [Va. Pharmacy Board v. Va. Consumer Council](#), [Bates v. State Bar of Arizona](#), [In re R.M.J.](#), and [Peel v. Attorney Disciplinary Comm’n. of Ill.](#), all *supra*, make clear, in order to satisfy the First Amendment, appellants must be permitted to use the terms “accountant,” “accounting,” or “accounting services,” if the use of those terms is further qualified by an explanation, disclaimer or warning stating that

the advertiser is not licensed by the state, or that the services being offered do not require a state license, thereby eliminating any potential or likelihood of confusion regarding those terms.

In sum, [section 5058](#) may constitutionally ban only those uses of the generic terms “accountant” and “accounting” that stand to potentially mislead the public regarding the user’s licensee or nonlicensee status. The evidence in this case supports the longstanding interpretation of [section 5058](#) as including within its ban the *unqualified* use of those terms as potentially *1024 misleading, to the public’s detriment. In contrast, where the generic terms are used in conjunction with a modifier or modifiers that serve to dispel any possibility of confusion—for example, an express disclaimer stating that the “accounting” services being offered do not require a state license—their use in such a context may not be constitutionally enjoined.

IV

The trial court’s judgment and injunction provided, in pertinent part: “Plaintiffs and Cross–Defendants ... who are not licensed as certified public accountants or public accountants are hereby permanently enjoined directly or indirectly from engaging in any of the following acts or practices: ... [¶] b. Engaging in the practice of public accountancy without prior compliance with the requirements of [sections 5000 et seq. of the Business and Professions Code](#) relating to the licensing of accountants; provided, however, nothing herein is intended to enjoin unlicensed persons from preparing compilation reports, ***374 **814 review reports, or audit reports, *although such activities are declared to be unlawful.*” (Italics added.)

[5] Appellants contended on appeal that the trial court exceeded its authority in holding the preparation of compilation reports, review reports and audit reports by unlicensed persons to be illegal. The Court of Appeal agreed, explaining that the Board had never alleged *in its cross-complaint* that appellants were engaged in such illegal activities, and presented no evidence at trial to establish that such activities are illegal; hence, the trial court erred in rendering judgment outside the issues raised by the pleadings or at trial. (7 Witkin, Cal. Procedure (3d ed. 1985) Judgment, § 30, p. 472.) In its answer to the petition for review, respondent Board has asked this court to fur-

ther consider whether the Court of Appeal erred in this regard.

We agree with the conclusions of the Court of Appeal respecting the procedural bar. In any event, the trial court’s injunction, as worded, is erroneous; unlicensed persons are permitted to make “audits” and prepare “reports,” when such is performed “as a part of bookkeeping operations.” (§ 5052; *ante*, at p. 365, fn. 3 of 9 Cal.Rptr.2d at p. 805, fn. 3, of 831 P.2d.)

V

The judgment of the Court of Appeal is affirmed.

[LUCAS](#), C.J., and [PANELLI](#) and ARABIAN, JJ., concur.

*1025 [MOSK](#), Justice, dissenting.

I dissent. The majority opinion not only violates the intent of the Accountancy Act ([Bus. & Prof.Code, § 5000 et seq.](#)),^{FN1} as Justice George’s dissent points out, but it also violates the First Amendment of the United States Constitution and article I, section 2(a) of the California Constitution.

^{FN1}. All further statutory references are to the Business and Professions Code.

On the first of these issues, the State Board of Accountancy (Board) in issuing regulations to effectuate the Accountancy Act ([Calif. Code of Regs., tit. 16, § 2](#), hereinafter Regulation 2) prohibits what the statute permits. That is, section 5052 allows nonlicensed persons to offer basic accounting services “in connection with bookkeeping operations.” Thus, such persons are authorized by law to perform accounting; it is axiomatic that those who perform accounting are accountants. Even [People v. Hill \(1977\) 66 Cal.App.3d 320, 325, 136 Cal.Rptr. 30](#), a case on which the majority rely, acknowledges that unlicensed persons perform accounting services.

In the face of specific statutory authorization, the Board has in Regulation 2 prohibited unlicensed persons to hold themselves out as accountants or as performing accounting services. The majority uphold this anomalous result by which a truthful representation specifically sanctioned by statute is labelled as misleading to the public.

Indeed, the holding of the majority would render improper a representation by an unlicensed person couched in the specific words of section 5052. The majority hold that an unlicensed person must include an “express disclaimer stating that the ‘accounting’ services being offered do not require a state license.” Thus, such a person who advertises that he or she offers accounting services “in connection with bookkeeping operations,” the very language used in section 5052, would run afoul of Regulation 2, according to the majority. An incomprehensible result indeed.

Nor do I agree with the majority's analysis of the purpose of [section 5058](#). They attempt to circumvent application of the doctrine of *ejusdem generis* by holding that the purpose of the catchall phrase (“any other title or designation that is likely to be confused with ‘certified public accountant’ or ‘public accountant’”) in that provision was to prevent the use of “other terms” the Legislature “had not then identified as misleading ... or might become misleading in the future.” The Legislature could not have had “accountant” in mind as a misleading term not then identified, since that designation was in common use then, ***375 **815 as it is now. If the Legislature had wanted to prohibit use of the term by unlicensed persons, it would have done so.

The majority fail to mention that every jurisdiction but one that has considered the issue before us has held, on either statutory or constitutional *1026 grounds, that use of the term “accountant” or “accounting” by unlicensed persons is proper. ([People v. Freedman](#) (1960) 144 Colo. 438, 356 P.2d 899; [Florida Accountants Association v. Dandelake](#) (Fla.1957) 98 So.2d 323; [Comprehensive, etc. v. Maryland State Bd. of Accountancy](#) (1979) 284 Md. 474, 397 A.2d 1019; [State v. Riedell](#) (1924) 109 Okl. 35, 233 P. 684; [Burton v. Accountant's Society of Virginia, Inc.](#) (1973) 213 Va. 642, 194 S.E.2d 684; [Tom Welch Accounting Service v. Walby](#) (1965) 29 Wis.2d 123, 138 N.W.2d 139.) Only a single intermediate appellate court in Texas has held to the contrary. ([Fulcher v. Texas State Bd. of Public Acc.](#) (Tex.Civ.App.1978) 571 S.W.2d 366; [Texas State Board of Public Accountancy v. Fulcher](#) (Tex.Civ.App.1974) 515 S.W.2d 950.)

I have serious doubts also whether the majority's conclusion complies with the First Amendment of the

federal Constitution or with the California Constitution. While [Peel v. Attorney Disciplinary Comm'n of Ill.](#) (1990) 496 U.S. 91, 109–110, 110 S.Ct. 2281, 2292–2293, 110 L.Ed.2d 83, does hold that some form of disclaimer may be required if commercial speech would be misleading without it, it also warns that the state has a “heavy burden of justifying a categorical prohibition against the dissemination of accurate factual information to the public.” (*Ibid.*, see so [Anderson v. Department of Real Estate](#) (1979) 93 Cal.App.3d 696, 155 Cal.Rptr. 307.) As we point out above, the unadorned designations “accountant” and “accounting” are accurate as applied to unlicensed persons. The state's interest in preventing misrepresentation can be met by prohibiting persons who are not certified public accountants or public accountants to advertise themselves as such, or to use terms that indicate they have been licensed by the state, rather than insisting upon an express disclaimer, as the majority gratuitously require.

Furthermore, Regulation 2 is itself of questionable validity. In 1948, at the time it was adopted, the Board consisted entirely of licensed accountants. (Stats.1945, ch. 1353, § 2, p. 2530.) The membership of the Board was broadened in 1961 to include public members (Stats.1961, ch. 1821, § 39, p. 3877); presently, it consists of 12 persons, 8 of them accounting professionals licensed by the state, and 4 public members. ([Bus. & Prof.Code, §§ 5000, 5001.](#)) None of the members of the Board, according to *amicus curiae*, the Center for Public Interest Law, is an unlicensed person performing accounting work. *Amicus curiae* states that a large percentage of the accounting work available is of the type that is performed by both licensed and unlicensed accountants. The Board majority has an obvious pecuniary interest in preventing those without a license from advertising to the public that they are performing accounting services. Regulation 2 furthers that interest. The law has long looked with disfavor on rules adopted by a *1027 regulatory body the majority of which consists of members of a profession with a pecuniary stake in restricting the rights of competitors. ([State Board v. Thrift–D–Lux Cleaners](#) (1953) 40 Cal.2d 436, 449, 254 P.2d 29; [Allen v. California Board of Barber Examiners](#) (1972) 25 Cal.App.3d 1014, 1017, 102 Cal.Rptr. 368; [Bayside Timber Co. v. Board of Supervisors](#) (1971) 20 Cal.App.3d 1, 12–14, 97 Cal.Rptr. 431.)

One additional point needs to be made. Court

opinions should not rely on public opinion polls to support their conclusions. Judicial integrity suffers when judges hold a finger up to see which way the wind is blowing. Indeed, I doubt that poll results—which are notoriously inaccurate—should be admitted in evidence. (There may be one exception, however: in change of venue motions in criminal cases, surveys are often used merely to reveal if the crime, the victim and the alleged perpetrator are generally known in the community in which the case is to be tried.)

****376 **816** I would reverse the judgment of the Court of appeal.

GEORGE, Justice, dissenting.
I respectfully dissent.

The majority affirms a judgment granting a permanent injunction enjoining appellants from referring to themselves as “accountants” or describing the services they offer as “accounting.” Appellants include Bonnie Moore, who possesses a college degree with a major in accounting, and officers and members of the California Association of Independent Accountants, a nonprofit membership organization affiliated with the National Society of Public Accountants. I would reverse the judgment.

As explained more fully below, the Legislature has not required that all accountants be licensed. Instead, it has defined a special class of accountants comprised of certified public accountants and public accountants who exclusively are authorized to perform certain types of accountancy and thus must be licensed. Other accountants are prohibited by [Business and Professions Code section 5058](#) ^{FN1} and related statutes from using these titles, or similar titles that might be confused with these titles.

^{FN1}. All further statutory references are to the Business and Professions Code unless otherwise indicated.

The majority acknowledges that unlicensed accountants may perform basic accounting services, but holds that such persons may not call themselves “accountants” or describe the services they offer as “accounting.” This holding is not based upon the language of [section 5058](#), which does not expressly prohibit use of the terms “accountant” and “accounting”

by unlicensed accountants, but upon a regulation promulgated by the Board of ***1028** Accountancy (the Board) which prohibits such use of these terms. I disagree with the majority.

I would hold that the Legislature has authorized unlicensed accountants to perform a wide range of accounting services and did not intend to prohibit such persons from accurately referring to themselves as accountants or describing the services they provide as accounting. Because an administrative regulation may not expand the scope of the statute it purports to enforce, the Board lacked the authority to alter this statutory scheme by prohibiting unlicensed accountants from using the terms “accountant” and “accounting.” Accordingly, I find it unnecessary to consider the impact of the First Amendment on this sue. ([Ashwander v. Valley Authority \(1936\) 297 U.S. 288, 347, 56 S.Ct. 466, 483, 80 L.Ed. 688.](#))

“Pursuant to established principles, our first task in construing a statute is to ascertain the intent of the Legislature so as to effectuate the purpose of the law. In determining such intent, a court must look first to the words of the statute themselves, giving to the language its usual, ordinary import and according significance, if possible, to every word, phrase and sentence in pursuance of the legislative purpose. A construction making some words surplusage is to be avoided. The words of the statute must be construed in context, keeping in mind the statutory purpose, and statutes or statutory sections relating to the same subject must be harmonized, both internally and with each other, to the extent possible. tions.]” ([Dyna-Med, Inc. v. Fair Employment & Housing Com. \(1987\) 43 Cal.3d 1379, 1386–1387, 241 Cal.Rptr. 67, 743 P.2d 1323.](#))

A license is not required to practice “accountancy” in this state, but only to practice “public accountancy” as that term is defined. (§ 5050.) ^{FN2}

^{FN2}. Section 5050 states, in part: “No person shall engage in the practice of public accountancy in this State unless such person is the holder of a valid permit to practice public accountancy issued by the board....”

Section 5051 provides that a person is “engaged in the practice of public accountancy” if he or she provides “profes-

sional services that involve or require an audit, examination, verification, investigation, certification, presentation, or review, of financial transactions and accounting records ... [¶] [or] [p]repares or certifies for clients reports on audits or examinations of books or records of account, balance sheets, and other financial, accounting and related schedules, exhibits, statements, or reports which are to be used for publication or for the purpose of obtaining credit or for filing with a court of law or with any governmental agency, or for any other purpose ... [¶] [or] renders professional services to clients for compensation in any or all matters relating to accounting procedure and to the recording, presentation, or certification of financial information or data.” (§ 5051, subs. (c)–(e).)

***377 **817 Section 5051 provides, in part, that an accountant is not engaged in the practice of public accountancy and, thus, does not require a license, if he or *1029 she: “(f) Keeps books, makes trial balances, or prepares statements, makes audits, or prepares reports, all as a part of bookkeeping operations for clients. [¶] (g) Prepares or signs as the tax preparer, tax returns for clients. [¶] (h) Prepares personal financial or investment plans or provides to clients products or services of others in implementation of personal financial or investment plans. [¶] (i) Provides management consulting services to clients. [¶] ... [As long as] he or she does not hold himself or herself out, solicit, or advertise for clients using the certified public accountant or public accountant designation.” ^{FN3}

^{FN3}. This portion of section 5051, which the Legislature stated was “declaratory of existing law,” was added to the statute after the trial in the present case. (Stats.1989, ch. 489, § 3.) “Under settled principles, the version of the [statute] in force at present is the relevant legislation for purposes of this appeal. ‘It is ... an established rule of law that on appeals from judgments granting or denying injunctions, the law to be applied is that which is current at the time of judgment in the appellate court.’ [Citations.]” (*Kash Enterprises, Inc. v. City of Los Angeles* (1977) 19 Cal.3d 294, 306, fn. 6, 138 Cal.Rptr. 53, 562 P.2d 1302; *Building Industry Assn. v. City of*

Oxnard (1985) 40 Cal.3d 1, 3, 218 Cal.Rptr. 672, 706 P.2d 285.)

Section 5052 provides that an unlicensed accountant may “contract[] with one or more persons, organizations, or entities, for the purpose of keeping books, making trial balances, statements, making audits or preparing reports, all as a part of bookkeeping operations, provided that such trial balances, statements, or reports are not issued over the name of such person as having been prepared or examined by a certified public accountant or public accountant.”

Sections 5055 and 5056 state that no person other than a certified public accountant (C.P.A.) ^{FN4} or public accountant (P.A.) ^{FN5} may use those titles or any other title or designation “tending to indicate” that the person is a C.P.A. or P.A.

^{FN4}. To use the title certified public accountant, a person must receive from the State Board of Accountancy (Board) a “certificate of certified public accountant” and hold a valid permit to practice. (§§ 5033, 5055.) In order to receive a certificate of certified public accountant, a person must earn a baccalaureate degree, with a major in accounting, from an accredited university or its equivalent (§ 5081.1), pass “written examinations in theory of accounts, in accounting practice, in auditing, in commercial law as affecting accountancy, and other related subjects as the certified public accountant members of the board may deem advisable” (§ 5082), and have from three to four years (depending upon the circumstances) of “public accounting experience” (§ 5083).

^{FN5}. To use the title public accountant, a person must receive from the Board a “certificate of public accountant” and be issued a permit to practice public accountancy. (§§ 5034, 5056.) For limited periods of time, the first being within six months of the enactment in 1945 of the prohibition against practicing public accountancy without a license and the last ending in 1968, a person who had been engaged in the practice of public accountancy prior to 1945 (and some others including veterans of the armed forces) could

receive a “certificate of public accountant” without passage of an examination or meeting any educational requirements. (Stats.1945, ch. 1353, § 2, p. 2537; Stats.1967, ch. 709, § 1, p. 2082; Stats.1968, ch. 519, § 1, p. 1160.)

*1030 In similar fashion, [section 5058](#) provides, in pertinent part: “No person or partnership shall assume or use the title or designation ‘chartered accountant,’ ‘certified accountant,’ ‘enrolled accountant,’ ‘registered accountant’ or ‘licensed accountant,’ or any other title or designation *likely to be confused with* ‘certified public accountant’ or ‘public accountant,’ or any of the abbreviations ‘C.A.,’ ‘E.A.,’ ‘R.A.,’ or ‘L.A.,’ or similar abbreviations likely to be confused with ‘C.P.A.’ or ‘P.A.’....” (Italics added.)

What the foregoing statutes expressly prohibit is the use by unlicensed accountants of the titles C.P.A. or P.A., or any title or designation likely to be confused with C.P.A. or P.A. The latter titles are reserved for those accountants who are licensed to perform types of accountancy which unlicensed accountants may not perform.***378 **818 But the Legislature did not require that all accountants be licensed and, consistently, did not prohibit unlicensed accountants from using the title “accountant.”

This interpretation of [section 5058](#) is supported by one of the basic tenets of statutory construction, the principle of *ejusdem generis*, which instructs that “ ‘where general words follow the enumeration of particular classes of persons or things, the general words will be construed as applicable only to persons or things of the same general nature or class as those enumerated. [It] is based on the obvious reason that if the [writer] had intended the general words to be used in their unrestricted sense, [he or she] would not have mentioned the particular things or classes of things which would in that event become mere surplusage.’ ” [Citations.]” ([Harris v. Capital Growth Investors XIV \(1991\) 52 Cal.3d 1142, 1160, 278 Cal.Rptr. 614, 805 P.2d 873](#), fn. omitted.) This principle applies with particular force in the present case.

The “general words” in [section 5058](#) form the catchall phrase, upon which the majority relies, prohibiting unlicensed persons from using “any *other* title or designation likely to be confused with ‘certified public accountant’ or ‘public accountant’....” (Italics

added.) Considered apart from the context of the statute and the overall scheme of which the statute is a part, this phrase could be construed to prohibit unlicensed accountants from using the term “accountant.” But under this construction, which the majority adopts, the enumeration of examples which precede the general words becomes mere surplusage, in violation of the principle of *ejusdem generis*.

This is so because each of the enumerated examples of titles likely to be confused with the titles C.P.A. and P.A. is comprised of the term “accountant” coupled with a modifier, as are the titles C.P.A. and P.A. themselves. The principle of *ejusdem generis* leads me to conclude, therefore, that the *1031 catchall phrase in [section 5058](#) does not prohibit the use of the title “accountant” standing alone.

The majority states that the doctrine of *ejusdem generis* is inapplicable because its application “would frustrate the intent underlying the statute.” (Maj. opn., ante, p. 366 of [9 Cal.Rptr.2d, p. 806 of 831 P.2d.](#)) The majority fails, however, to describe the method it uses to discern the statute’s underlying intent. Instead, the majority simply states its conclusion without explaining its reasoning. I disagree that the doctrine of *ejusdem generis* is inapplicable; rather, it is a useful tool for determining the intent of the Legislature based on the language used in drafting the statute.

Had the Legislature meant to prohibit use of the unmodified term “accountant,” it simply would have said so. Just as sections 5055 and 5056 expressly prohibit unlicensed accountants from using the titles “certified public accountant” and “public accountant,” the Legislature could have added a similar provision expressly prohibiting unlicensed accountants from using the term “accountant” as well. Presumably the Legislature would have done so, had it intended to prohibit such accountants from calling themselves “accountants.” “ ‘Where the [Legislature] has demonstrated the ability to make [its] intent clear, it is not the province of this court to imply an intent left unexpressed.’ [Citation.]” ([Peralta Community College Dist. v. Fair Employment & Housing Com. \(1990\) 52 Cal.3d 40, 50, 276 Cal.Rptr. 114, 801 P.2d 357.](#))

The majority agrees “that [section 5058](#) does not itself expressly prohibit the use of the unmodified terms ‘accountant’ and ‘accounting’ ” (maj. opn.,

ante, p. 366 of [9 Cal.Rptr.2d, p. 806 of 831 P.2d](#)) and relies instead on a regulation promulgated by the Board which provides in pertinent part: “The following are titles or designations likely to be confused with the titles Certified Public Accountant and Public Accountant within the meaning of [Section 5058 of the Business and Professions Code](#): [¶] (a) ‘Accountant,’ ‘auditor,’ ‘accounting,’ or ‘auditing,’ when used either singly or collectively*****379** ****819** or in conjunction with other titles.” ([Cal.Code Regs., tit. 16, § 2.](#))

Such an administrative construction, “although not controlling, is entitled to great weight. [Citations.] ... The final meaning of a statute, [however], rests with the courts.... ‘ “Administrative regulations that alter or amend the statute or enlarge or impair its scope are void and courts not only may, but it is their obligation to strike down such regulations.” [Citation.] *And this is the rule even when, as here, “the statute is subsequently reenacted without change.”* [Citations.]’ ” ([Dyna-Med, Inc. v. Fair Employment & Housing Com., supra, 43 Cal.3d 1379, 1388–1389, 241 Cal.Rptr. 67, 743 P.2d 1323](#), italics added.)

***1032** The above quoted regulation is invalid because it would expand the scope of [section 5058](#). Nothing in [section 5058](#), or in the statutory scheme of which it is a part, exhibits a legislative intent to prohibit unlicensed accountants from referring to themselves as accountants, or from describing the services they render as accounting. The Board may not expand the scope of [section 5058](#) by enacting a regulation prohibiting conduct which [section 5058](#) would permit.^{FN6}

^{FN6}. The majority also notes that both the Court of Appeal ([People v. Hill \(1977\) 66 Cal.App.3d 320, 136 Cal.Rptr. 30](#)) and the Attorney General (46 Ops.Cal.Atty.Gen. 140, 141 (1965)) have concluded that unlicensed accountants are precluded from using the title “accountant.” Citing the decision in [Pacific Greyhound Lines v. Johnson \(1942\) 54 Cal.App.2d 297, 303, 129 P.2d 32](#), the majority concludes that it must be presumed that the Legislature was aware of these constructions of [section 5058](#) when it thereafter amended the statute. I agree that these factors are significant, but, as recognized in [Pacific Greyhound Lines v. Johnson, supra, 54 Cal.App.2d 297, 303, 129 P.2d 32](#),

they “are only aids in statutory construction of a legislative enactment which is so general in its terms as to render an interpretative rule or regulation appropriate. They are not conclusive upon the courts.”

The majority concludes that by including the catchall phrase in [section 5058](#), the Legislature vested the Board with discretion to prohibit unlicensed accountants from using the title “accountant” if the Board determined the public otherwise might be misled. I disagree for two reasons.

First, the Legislature would not have prefaced the catchall phrase in [section 5058](#) with a list of examples, all of which consist of the term “accountant” coupled with a modifier, had it intended to prohibit, or to authorize the Board to prohibit, the use of the term “accountant” standing alone. Had the Legislature intended to vest the Board with unfettered discretion to prohibit the use of any title the Board found to be misleading, including the unadorned term “accountant,” it would have used only the catchall phrase employed in [section 5058](#).

By including the examples found in [section 5058](#), the Legislature described the types of titles which might be confused with the titles C.P.A. and P.A. and which the Legislature intended to prohibit unlicensed accountants from using. The title “accountant,” standing alone, does not fit this description. To ignore these examples, as does the majority, violates the doctrine of *ejusdem generis*, a doctrine which merely reflects our common experience with the manner in which language is used.

Second, the Board's decision to prohibit use of the term “accountant,” because it may be confused with the terms C.P.A. and P.A., constitutes a significant alteration of the statutory scheme. The Accountancy Act creates a rather subtle distinction between “public accountancy,” which only C.P.A.'s and P.A.'s may perform, and other types of accountancy, which unlicensed ***1033** accountants may perform. If the public finds this distinction confusing and erroneously believes that all accountants must be licensed, it must be left to the Legislature to alleviate this confusion by amending the statutes. Neither the Board nor this court possesses the authority to alter the statutory scheme established by the Accountancy Act, however beneficial such alterations might appear to be.

The majority finds persuasive the results of a public opinion poll, commissioned by the state, which posed the following questions: (1) “Do you think that persons who refer to themselves as accountants in advertising***380 **820 to the public are required to be licensed by the State of California,” and (2) “Do you think persons who advertise accounting services to the public are required to be licensed by the State of California to offer such services?” More than half the number of persons queried believed that a license was required in both situations.

The majority concludes that the results of this survey “support the inference that members of the public who believe that licensing is required would assume that a person who uses the title ‘accountant’ and the designation ‘accounting’ to describe the services offered is licensed by the state. [Fn. omitted.]” (Maj. opn., *ante*, p. 368 of 9 Cal.Rptr.2d, p. 808 of 831 P.2d.) This information, however, is not helpful in resolving the issue before us. It is not surprising that a person who erroneously believes that all accountants must be licensed would assume that a person using the title “accountant” is licensed. Just as significantly, the survey sheds no light on the relevant issue under [section 5058](#); namely, whether the public is likely to confuse the terms “accountant” and “accounting” with the titles “certified public accountant” and “public accountant.” Instead, the survey reveals only that a majority of the public erroneously believes that all accountants must be licensed.^{FN7} It is beyond dispute that no license is required to perform certain types of accounting. The circumstance that a majority of the public believes otherwise is irrelevant.

[FN7](#). Assuming, without deciding, that the response to a public opinion poll is an appropriate basis for deciding an issue of statutory construction, a more useful query would have been: “Do you believe that persons who refer to themselves as accountants are certified public accountants?”

[Section 5058](#) prohibits unlicensed accountants from using any title that might be confused with the titles C.P.A. and P.A. Contrary to the conclusion reached by the majority, the statute was not intended to prohibit, or to authorize the Board to prohibit, an accountant's use of any term that the public might construe as implying licensure by the state. (Maj. opn.,

ante, pp. 360–361 of 9 Cal.Rptr.2d, pp. 800–801 of 831 P.2d.)

The importance of this distinction is demonstrated by the following example. The majority concedes that unlicensed accountants may use the *1034 term “accountant” if “used in conjunction with a modifier or modifiers that serve to dispel any possibility of confusion...” (Maj. opn., *ante*, pp. 360, 373 of 9 Cal.Rptr.2d, pp. 800, 813 of 831 P.2d.) Consider an unlicensed accountant who uses the title “accountant” but adds an express disclaimer that he or she is not a C.P.A. or P.A. Such a designation certainly would dispel any possibility that the term “accountant” might be confused with the titles C.P.A. or P.A. and, accordingly, would satisfy even the most stringent interpretation of [section 5058](#). It would not, however, dispel possible confusion concerning whether the accountant was licensed by the state because, according to the poll upon which the majority relies, the public mistakenly believes that all accountants are required to be licensed. It can be seen, therefore, that the public's belief as to whether accountants must be licensed is irrelevant to the determination of the proper scope of [section 5058](#).

Neither the Accountancy Act in general, nor [section 5058](#) in particular, prohibits an unlicensed accountant from using the title “accountant.” As the majority recognizes, it is *lawful* for *unlicensed* accountants to perform certain types of accounting services. Nothing in the statutory scheme prohibits unlicensed accountants who lawfully provide accounting services from referring to themselves as accountants, nor does anything in the act authorize the Board to prohibit by regulation what the Legislature has permitted by statute.

Accordingly, I would reverse the judgment of the Court of Appeal. I reach this conclusion on the basis of the plain meaning of the words of the statute as interpreted with the aid of settled principles of statutory construction, and in the absence of any clear expression of legislative intent to the contrary, without regard, of course, to whether it would be good public policy for the Legislature to prohibit unlicensed accountants, whatever their level of education***381 **821 and experience, from calling themselves “accountants.”

[MOSK](#) and [KENNARD](#), JJ., concur.

831 P.2d 798
2 Cal.4th 999, 831 P.2d 798, 9 Cal.Rptr.2d 358
(Cite as: 2 Cal.4th 999, 831 P.2d 798, 9 Cal.Rptr.2d 358)

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Cal.,1992.
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28 Cal.App.4th 770, 33 Cal.Rptr.2d 788, 63 USLW 2274
(Cite as: 28 Cal.App.4th 770, 33 Cal.Rptr.2d 788)

C

Court of Appeal, First District, Division 4, California.
Shaun CARBERRY, Plaintiff and Appellant,

v.

STATE BOARD OF ACCOUNTANCY, Defendant
and Respondent.

No. A064735.
Sept. 26, 1994.

Business owner sought declaration that he was entitled to advertise his business as “accounting” service, even though he was not certified public accountant. The Superior Court, San Francisco County, No. 954687, [William J. Cahill](#), J., dismissed complaint. Business owner appealed. The Court of Appeal, [Dossee](#), J., held that: (1) business owner could not use “accounting” in his business name without a disclaimer qualifying the term; (2) business owner's use of term “EA” when advertising his business, signifying that business owner was “enrolled agent,” did not alert consuming public that business owner was not licensed accountant; and (3) statute prohibiting business owner from using “accounting” in business name was not preempted by federal statute governing enrolled agents.

Affirmed.

West Headnotes

[\[1\]](#) Accountants 11A 2

[11A](#) Accountants

[11Ak2](#) k. Constitutional and statutory provisions. [Most Cited Cases](#)

Accountants 11A 3.1

[11A](#) Accountants

[11Ak3](#) Regulation; License or Certificate

[11Ak3.1](#) k. In general. [Most Cited Cases](#)

Statute which prohibited person from holding himself out as certified public accountant unless licensed by Board of Accountancy was not unconstitutional and, thus, business owner who was not certified public accountant could not use “accounting” in his business name without a disclaimer qualifying the term. [West's Ann.Cal.Bus. & Prof.Code § 5058](#); [Cal.Code Regs. tit. 16, § 2](#).

[\[2\]](#) Accountants 11A 3.1

[11A](#) Accountants

[11Ak3](#) Regulation; License or Certificate

[11Ak3.1](#) k. In general. [Most Cited Cases](#)

Business owner's use of term “EA” when advertising his business, signifying that business owner was “enrolled agent,” did not alert consuming public that business owner was not licensed accountant and, thus, business owner was prohibited from using “accounting” in his business name by statute prohibiting a person from holding himself out as certified public accountant unless licensed by Board of Accountancy. [West's Ann.Cal.Bus. & Prof.Code § 5058](#); [Cal.Code Regs. tit. 16, § 2](#).

[\[3\]](#) Accountants 11A 2

[11A](#) Accountants

[11Ak2](#) k. Constitutional and statutory provisions. [Most Cited Cases](#)

States 360 18.67

28 Cal.App.4th 770, 33 Cal.Rptr.2d 788, 63 USLW 2274
(Cite as: 28 Cal.App.4th 770, 33 Cal.Rptr.2d 788)

[360](#) States

[360I](#) Political Status and Relations

[360I\(B\)](#) Federal Supremacy; Preemption

[360k18.67](#) k. Professions. [Most Cited Cases](#)

Federal statute governing practice of “enrolled agents” who appear before Treasury Department did not preempt state statute prohibiting a person from holding himself out as certified public accountant and, thus, business owner’s status as enrolled agent did not exempt him from operation of state statute where federal statute contained no expression of congressional intent to preempt state law, nothing in federal regulations governing conduct of enrolled agents precluded supplementary state regulation, and state regulatory scheme governing accountants did not conflict with federal regulations governing enrolled agents. [West’s Ann.Cal.Bus. & Prof.Code § 5058](#); [Cal.Code Regs. tit. 16, § 2](#); [31 U.S.C.A. § 330](#).

****789 *772** Shaun Carberry, in pro. per.

[Daniel E. Lungren](#), Atty. Gen., Robert L. Mukai, Chief Asst. Atty. Gen., [John M. Huntington](#), Sr. Asst. Atty. Gen., [Wilbert E. Bennett](#), Supervising Deputy Atty. Gen., San Francisco, for defendant and respondent.

[DOSSEE](#), Associate Justice.

In this action for declaratory relief plaintiff sought a declaration that he is entitled to advertise his business as an “accounting” service even though he is not a certified public accountant. The State Board of Accountancy successfully demurred to the complaint, and the action was dismissed. Plaintiff appeals.

FACTS

Plaintiff is not a certified public accountant. He has completed all the eligibility requirements except for the two-year work experience requirement, but he has deliberately chosen not to fulfill that requirement.

Plaintiff is an enrolled agent, admitted to practice before the Internal Revenue Service. He operates a sole proprietorship accounting and tax preparation service in San Francisco under the name “Citizens Accounting & Tax Service.”

In March 1993 the Board of Accountancy, the state agency empowered to license certified public accountants, ordered plaintiff either to cease using the term “accounting” in his business name or to add a disclaimer that plaintiff is not licensed by the state. After an exchange of correspondence with the board, plaintiff filed this lawsuit seeking a declaration of his First Amendment right to use the word “accounting” in his business name.

DISCUSSION

[1] [Business and Professions Code section 5058](#) provides that no person may hold himself out as a certified public accountant unless licensed by the Board of Accountancy. ****790** The Board’s Regulation 2 ([Cal.Code Regs., tit. 16, § 2](#)) declares the following designations likely to be confused with the title of certified public accountant: “accountant,” “auditor,” “accounting,” or “auditing.”

***773** In [Moore v. California State Bd. of Accountancy](#) (1992) **2 Cal. 4th 999**, 9 Cal.Rptr.2d 358, 831 P.2d 798, certiorari denied (1993) [507 U.S. 951](#), [113 S.Ct. 1364](#), [122 L.Ed.2d 742](#), the Supreme Court rejected the constitutional argument raised by plaintiff here. The court held that although the terms “accounting” or “accountant” may not constitutionally be enjoined if they are accompanied by an explanatory disclaimer, the use of such terms without a modifier is potentially misleading commercial speech and may be banned to prevent deception of the public. The court explained that a disclaimer might, for instance, state that the advertiser is not licensed by the state or that the services offered do not require a state license. ([2 Cal.4th at pp. 1023–1024](#), 9 Cal.Rptr.2d 358, 831 P.2d 798.)

28 Cal.App.4th 770, 33 Cal.Rptr.2d 788, 63 USLW 2274
(Cite as: 28 Cal.App.4th 770, 33 Cal.Rptr.2d 788)

We are bound by principles of stare decisis to follow the holding of that case. ([Auto Equity Sales, Inc. v. Superior Court \(1962\) 57 Cal.2d 450, 20 Cal.Rptr. 321, 369 P.2d 937.](#)) In accordance with [Moore](#), then, we must conclude as a matter of law that the board may constitutionally prohibit plaintiff from using the term “accounting” unless he includes additional language qualifying the term.

[2] Plaintiff contends that because his business name, “Citizens Accounting & Tax Service,” is always accompanied by his name and designation, “Shaun Carberry, EA” (meaning “enrolled agent”), he has provided an adequate modifier pursuant to [Moore](#). We cannot agree.

The disclaimer needed to permit the use of the term “accounting” by an unlicensed person is one that serves “to dispel any possibility of confusion.” ([Moore, supra, 2 Cal.4th at p. 1024, 9 Cal.Rptr.2d 358, 831 P.2d 798.](#)) The mere insertion of the designation “EA” does not adequately eliminate potential confusion from the term “accounting.” It does not alert the consuming public that the advertiser is not a licensed accountant.

[3] Plaintiff seeks to exempt himself from Regulation 2 and the [Moore](#) decision by virtue of his status as an enrolled agent. Plaintiff reasons that because enrolled agents are regulated by the Treasury Department and because the Treasury Department regulations govern advertising, the board is without authority to impose its own advertising restrictions on plaintiff.

The argument is unsound. The preemption doctrine, upon which plaintiff relies, was explained by the United States Supreme Court as follows: “Federal law may supersede state law in several different ways. First, when acting within constitutional limits, Congress is empowered to pre-empt state law by so stating

in express terms. Second, congressional intent to pre-empt state law in a particular area may be inferred where *774 the scheme of federal regulation is sufficiently comprehensive to make reasonable the inference that Congress ‘left no room’ for supplementary state regulation.... [¶] As a third alternative, in those areas where Congress has not completely displaced state regulation, federal law may nonetheless pre-empt state law to the extent it actually conflicts with federal law.” ([California Federal S. & L. Assn. v. Guerra \(1987\) 479 U.S. 272, 280–281, 107 S.Ct. 683, 689, 93 L.Ed.2d 613](#), citations omitted.)

Although Congress has granted to the Secretary of the Treasury broad authority to regulate the practice of persons appearing before the Treasury Department ([31 U.S.C. § 330](#)), the statute contains no expression of congressional intent to preempt state law. Nor is there anything in the regulations issued by the secretary governing the qualifications and conduct of enrolled agents or other persons representing clients before the Internal Revenue Service ([31 C.F.R. § 10.0 et seq.](#)) to preclude supplementary state regulation.

The regulations do include one pertaining to advertising.^{FN1} Yet, there is no suggestion **791 that this regulation was intended to be the exclusive restriction on advertising by enrolled agents. Indeed, on its face the regulation is confined to “any Internal Revenue Service matter.” We see nothing to preclude a state restriction on the use of the term “accounting” in a business name so as to prevent confusion of the public. The fact that the federal regulation permits an enrolled agent to use the designation “EA” in no way suggests that such designation is sufficient to prevent confusion over the term “accounting.”

^{FN1}. The regulation provides: “(a) *Advertising and solicitation restrictions.* (1) No attorney, certified public accountant, enrolled agent, enrolled actuary, or other individual eligible to practice before the Internal Revenue Service shall, with respect to any

28 Cal.App.4th 770, 33 Cal.Rptr.2d 788, 63 USLW 2274
(Cite as: **28 Cal.App.4th 770, 33 Cal.Rptr.2d 788**)

Internal Revenue Service matter, in any way use or participate in the use of any form of public communication containing (i) A false, fraudulent, unduly influencing, coercive, or unfair statement or claim; or (ii) a misleading or deceptive statement or claim. [¶] Enrolled agents, in describing their professional designation, may not utilize the term of art ‘certified’ or indicate an employer/employee relationship with the Internal Revenue Service. Examples of acceptable descriptions are ‘enrolled to represent tax payers before the Internal Revenue Service,’ ‘enrolled to practice before the Internal Revenue Service,’ and ‘admitted to practice before the Internal Revenue Service.’ Enrolled agents and enrolled actuaries may abbreviate such designation to either EA or E.A.” ([31 C.F.R. § 10.30\(a\)\(1\).](#))

END OF DOCUMENT

Finally, the state regulatory scheme does not conflict with the federal regulations. There is nothing in the state board's restriction on the use of the term “accounting” in a business name that interferes with the Treasury Secretary's governance of enrolled agents. Enrolled agents remain free to perform all necessary activities in their practice before the IRS,*775 even accounting services, and they remain free to advertise their services. What they cannot do is hold themselves out to the public as certified public accountants when in fact they are unlicensed by the state.

The judgment is affirmed.

[STRANKMAN](#), P.J., and [NEWSOM](#), J., concur.

Cal.App. 1 Dist.,1994.

Carberry v. State Bd. of Accountancy

28 Cal.App.4th 770, 33 Cal.Rptr.2d 788, 63 USLW
2274

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LC Item II.
July 25, 2013

CBA Item VIII.B.2.
July 25, 2013

Update on Legislation Which the CBA Has Taken a Position

Presented by: Andrew Breece, Legislation Analyst

Date: June 28, 2013

Purpose of the Item

The purpose of this agenda item is to present the status of legislation being followed by the California Board of Accountancy (CBA).

Action(s) Needed

No action is needed unless the CBA wishes to change a position or discontinue following a bill.

Background

The CBA took positions on various pieces of legislation (**Attachment 1**) at both its March and May meetings. Of those, staff recommends maintaining the current position on the following bills which have either become two-year bills or have incurred minor, technical, or no amendments: Assembly Bill (AB) AB 258, AB 291, AB 376, AB 1057, AB 1151, and AB 1420.

Comments

The following bills are still moving through the process, are still relevant to the CBA and have been amended since the May CBA meeting.

AB 186 – Military Spouses: Temporary Licenses (Attachment 2)

CBA Position: Support if Amended

What It Did

This bill would require a board, after an appropriate investigation, to issue a temporary license, for a period of up to 12 months, 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.

Amendments

This bill contains technical amendments, which do not pertain to the CBA's suggested amendment.

On June 21, 2013, President LaManna met with Assembly Member Maienschein in his district office and discussed the CBA's suggested amendment, which is to ensure that applicants for a temporary licensure hold a current, active, and unrestricted license with

Update on Bills on Which the CBA Has Taken a Position

Page 2 of 4

the authority to practice the identified profession in the state that issued the license. Subsequent to the meeting, at the request of President LaManna, staff contacted the author's office to follow-up on the proposed amendment.

On July 1, 2013, AB 186 was discussed in the Senate Business, Professions and Economic Development Committee. During the meeting, some committee members expressed concern that the qualifications needed to obtain a license varies between states and may not be compatible with California. To address the committee's concerns, the author agreed to make AB 186 a two-year bill.

Recommendation

Until the bill is amended to incorporate the suggested amendment, staff recommend that the CBA maintain its Support if Amended position.

SB 176 – Administrative Procedures (Attachment 3)

CBA Position: Watch

What It Did

Senate Bill (SB) 176 would require state agencies to submit a notice to the Office of Administrative Law (OAL) in the *California Regulatory Notice Register (Notice Register)* at least 15 days prior to any meeting that is seeking public input on regulatory changes. Examples of meetings seeking public input include, but are not limited to, the following formal, official, or organized:

- Informational hearings
- Workshops
- Scoping hearings
- Preliminary meetings
- Public and stakeholder outreach meetings

This bill would additionally require a state agency to submit a notice for publication in the *Notice Register* any time it issues or publishes a 15-Day Notice of or posts informational reports on its website for public review.

Amendments

There was concern expressed at the May 2013 CBA meeting that this bill's requirement to submit a notice to OAL for publication in the *Notice Register* may impact the CBA's ability to hold a two-board/committee member meeting, which does not require public notice, and emergency meetings, which only require 48-hour notice. However, following the May 2013 CBA meeting, this provision was amended out of the bill.

A new provision was amended into SB 176 to require state agencies to discuss regulatory changes with interested parties before initiating regulatory action. The CBA already performs this action prior to initiating its regulatory actions. However, this amendment may help increase public involvement for other state agencies.

Update on Bills on Which the CBA Has Taken a Position

Page 3 of 4

In addition, this bill was amended to require the OAL to allow state agencies to electronically submit OAL notices required to be published and information required to be submitted pursuant to specified provisions of existing law.

Recommendation

The CBA took a Watch position at its May 2013 meeting because of concerns expressed by legal counsel. Due to the bill's recent amendments, the CBA may wish to adopt a Support position on SB 176.

SB 305 – Healing Arts: Boards (Attachment 4)

CBA Position: Neutral

What It Did

This bill would clarify that a board described in Business and Professions (B&P) Code section 144 may request, and is authorized to receive, certified records of all arrest and convictions, certified records regarding probation, and all other related documents needed to complete an applicant or licensee investigation from a local or state agency. This bill contains additional provisions unrelated to the CBA.

Amendments

Staff contacted the Senate Business, Professions and Economic Development (BP&ED) Committee to address concerns expressed during the meeting in regards to the broad scope of the bill's proposed section 144.5. Staff have not received any feedback on the comments; however, this may be due to the Legislature's pending summer recess.

Recommendation

Staff recommends that the CBA maintain a Neutral position.

SB 822 –Professions and Vocations (Attachment 5)

CBA Position: Support

What it Did

This bill would ensure the CBA has the authority to issue citations to out-of-state licensees practicing in California under practice privilege.

Additionally, this bill would require an out-of-state licensee, practicing in California under a practice privilege, to notify the CBA of pending criminal charges. This notification is consistent with the information the CBA receives for California licensees as well as individuals seeking to practice in California and will allow the CBA to initiate an investigation to determine whether there is potential for consumer harm and take action accordingly. This bill is an omnibus bill, and it contains provisions unrelated to the CBA.

Amendments

There have not yet been amendments to the provisions that relate to the CBA. However, the CBA's proposed amendment to B&P Code section 5087 has been provided to the Senate BP&ED Committee for incorporation into SB 822.

Update on Bills on Which the CBA Has Taken a Position

Page 4 of 4

The proposed amendment would modify how the CBA would issue a CPA license to an out-of-state licensee. As it is presently crafted, section 5087 allows the CBA to issue a California CPA license to an applicant if he or she holds a valid license in another state and the CBA determines that the standards under which the license was originally issued are substantially equivalent to California's standards. This language necessitates a "look back" requirement to identify the original standards under which the license was issued, which can prove problematic if an individual was licensed several years ago.

During the May CBA meeting, a request was made by stakeholders to retain some element of look back language in the event a state eventually is removed from the substantially equivalent list. In collaboration with President LaManna and stakeholders, staff revised the language to address the concern.

Recommendation

Staff recommends that the CBA maintain a Support position.

SB 823 – Professions and Vocations: Licensure (Attachment 6)

CBA Position: Support

What It Did

This bill would amend section 5093 of the B&P Code to allow applicants who are enrolled in a program that grants concurrent conferral of a master's and baccalaureate degree, to qualify for the CPA Exam prior to the conferral of a baccalaureate degree.

This bill would also allow prospective Certified Public Accountants (CPA), who complete and pass all four sections of the Uniform CPA Exam (CPA Exam) on or before December 31, 2013, to obtain licensure under existing law until January 1, 2016.

This is an urgency bill that will take effect upon its signing by the Governor.

Amendments

Based on testimony received at the May 2013 CBA meeting, this bill was amended to allow an applicant enrolled in a program that confers a baccalaureate degree upon completion of 150 semester units, as specified, to qualify for the Uniform CPA Examination (CPA Exam) following the completion of the baccalaureate degree requirements.

Attachments

1. Legislative Tracking List
2. AB 186 – Military Spouses: Temporary Licenses
3. SB 176 – Administrative Procedures
4. SB 305 – Healing Arts: Boards
5. SB 822 – Professions and Vocations
6. SB 823 – Professions and Vocations: Licensure



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Attachment 1

2013 Legislative Tracking List

Bill #	Author	Topic	Position	Status
AB 186	Maienschein	Temporary licenses	Support if Amended	Two-Year Bill
AB 258	Chávez	State Agencies: Veterans	Support	Senate Floor
AB 291	Nestande	California Sunset Review	Oppose	Two-Year Bill
AB 376	Donnelly	Regulations: Notice	Watch	Two-Year Bill
AB 1057	Medina	Professions and Vocations: Military Service	Support	Senate Floor
AB 1151	Ting	Tax Agent Registration	Oppose	Two-Year Bill
AB 1420	Committee on Accountability and Administrative Review	State Government: State Agencies: Reports	Watch	Senate Appropriations/ Hearing on August 12, 2013
SB 176	Galgiani	Administrative Procedures	Watch	Assembly Accountability and Administrative Review
SB 305	Price	Healing Arts: Boards	Neutral	Assembly Appropriations
SB 822	Business, Professions, and Economic Development Committee	Professions and Vocations.	Support	Assembly Appropriations
SB 823	Business, Professions, and Economic Development Committee	Accountancy: Licensure.	Support	Assembly Appropriations

AMENDED IN SENATE JULY 10, 2013

AMENDED IN ASSEMBLY MAY 24, 2013

CALIFORNIA LEGISLATURE—2013–14 REGULAR SESSION

ASSEMBLY BILL

No. 1412

**Introduced by Committee on Revenue and Taxation (Bocanegra
(Chair), Gordon, Mullin, Pan, V. Manuel Pérez, and Ting)**

March 19, 2013

An act to amend Section 6901 of the Revenue and Taxation Code, relating to taxation.

LEGISLATIVE COUNSEL'S DIGEST

AB 1412, as amended, Committee on Revenue and Taxation. Sales and use taxes: claim for refund: customer refunds.

Under the Sales and Use Tax Law, any amount collected or paid in excess of what is due under that law is required to be credited by the State Board of Equalization against any other amounts due and payable from the person from whom the excess amount was collected or by whom it was paid, and the balance refunded to the person, as provided. Under existing law, when an amount represented by a person to a customer as constituting reimbursement for taxes due under the Sales and Use Tax Law is computed upon an amount that is not taxable or is in excess of the taxable amount and is actually paid by the customer to the person, the amount paid is required to be returned by the person to the customer upon notification by the board or by the customer that this excess has been ascertained.

This bill would authorize a person to make an irrevocable election to assign to the customer the right to receive the amount that would be

refunded to the person, provided specified conditions are met, and would authorize the board to make that payment to the customer, *as provided*.

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 6901 of the Revenue and Taxation Code
2 is amended to read:

3 6901. (a) If the board determines that any amount, penalty, or
4 interest has been paid more than once or has been erroneously or
5 illegally collected or computed, the board shall set forth that fact
6 in the records of the board and shall certify the amount collected
7 in excess of the amount legally due and the person from whom it
8 was collected or by whom paid. The excess amount collected or
9 paid shall be credited by the board on any amounts then due and
10 payable from the person from whom the excess amount was
11 collected or by whom it was paid under this part, and the balance
12 shall be refunded to the person, or his or her successors,
13 administrators, or executors, or customer as provided in subdivision
14 (b), if a determination by the board is made in any of the following
15 cases:

16 (1) Any amount of tax, interest, or penalty was not required to
17 be paid.

18 (2) Any amount of prepayment of sales tax, interest, or penalty
19 paid pursuant to Article 1.5 (commencing with Section 6480) of
20 Chapter 5 was not required to be paid.

21 (3) Any amount that is approved as a settlement pursuant to
22 Section 7093.5.

23 (b) A person may make an ~~irrevocable~~ election to assign to the
24 customer the right to receive the amount refunded if all of the
25 following conditions are met:

26 (1) The entire amount represents excess tax reimbursement that
27 is required to be paid by the person to a single customer under
28 Section 6901.5.

29 (2) The amount to be refunded is fifty thousand dollars (\$50,000)
30 or greater.

31 (3) *The election is irrevocable.*

32 (4) *Contingency fees are not charged or paid in connection with*
33 *the election, assignment, or claim for refund.*

1 ~~(3)~~

2 (5) (A) The irrevocable election to assign to the customer the
3 amount refunded is evidenced by a statement signed by the person
4 and the customer authorizing the named customer to receive the
5 amount refunded.

6 ~~(4)~~

7 (B) The signed statement *described in subparagraph (A)* is
8 submitted to the board in conjunction with the person's claim for
9 refund.

10 (C) *The signed statement described in subparagraph (A) shall*
11 *be made on a form prescribed by the board, which shall include*
12 *a statement that a contingency fee charged or paid in connection*
13 *with the election, assignment, or claim for refund is contrary to*
14 *public policy and any contingency fee charged or paid shall render*
15 *the assignment null and void.*

16 (c) Any overpayment of the use tax by a purchaser to a retailer
17 who is required to collect the tax and who gives the purchaser a
18 receipt therefor pursuant to Article 1 (commencing with Section
19 6201) of Chapter 3 shall be credited or refunded by the state to the
20 purchaser.

21 (d) Any proposed determination by the board pursuant to this
22 section with respect to an amount in excess of fifty thousand dollars
23 (\$50,000) shall be available as a public record for at least 10 days
24 prior to the effective date of that determination.

KP

PUBLIC AFFAIRS

July 23, 2013

Assemblymember Raul Bocanegra
Chair, Assembly Revenue and Taxation Committee
State Capitol, Room 4167
Sacramento, CA 95814

RE: AB 1412 (As amended July 11, 2013) – Oppose Unless Amended

Dear Assemblymember Bocanegra,

On behalf of our clients, Deloitte LLP, Ernst & Young LLP, Grant Thornton LLP, KPMG LLP and PricewaterhouseCoopers LLP, we are writing to express opposition to your AB 1412 – an initially positive and non-controversial measure that now includes highly problematic provisions pertaining to a ban on contingency fees.

The fundamental underlying purpose of AB 1412 is to allow persons who have collected and remitted sales tax to be able to assign the right to a refund of overpayment of that tax to the customer who actually paid the tax. Unfortunately, the provision has been encumbered by a proposal that would make it inapplicable in cases where a contingency fee is charged in connection with the assignment, the related election, or the actual refund claim. We believe the disqualification in cases involving a contingency fee is an unnecessary and counterproductive provision that detracts from the primary purpose of the measure.

Our position with respect to this provision is consistent with prior proposed legislation that has sought to ban contingency fees with respect to tax matters. As a practical matter, findings based on contingent fee arrangements are not necessarily consultant/service provider-driven, but rather consumer/client-preferred (and in many cases mandated) as a means to engage consultants to help secure missed tax savings, credits or exemptions to which they are rightfully and legally entitled.

Overall, this provision is overreaching and unnecessary with respect to certified public accountants (CPAs). American Institute of CPA (AICPA) members who engage in tax-related work are already required to follow rigorous professional standards, which include an ethical duty and responsibility to the tax system as well as the taxpayer.

These AICPA standards include AICPA rule 302, which prohibits contingency fee arrangements in general, but provides for a limited exception for tax matters.

In tax matters, a contingent or findings-based fee is permitted, but only if there is a reasonable expectation at the time the fee arrangement is entered into that the matter will be subject to substantive consideration by the state or local taxing authority, as is typically the case involving sales tax refund claims. The California Board of Accountancy similarly limits contingency fees for those subject to their rules and licensing provisions. See CA Code of Regulations, Tit. 16, Div. 1, Art. 9, section 62. This prevents California CPAs from playing "audit lottery" on behalf of their clients and filing original returns without merit in the hope that these returns will not be audited.

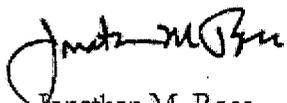
Moreover, CPAs and CPA firms are further, and in some cases severely limited in their contingency fee work by the Securities Exchange Commission (SEC), Public Company Accounting Oversight Board (PCAOB), State Accountancy Boards, and the Internal Revenue Service (IRS) through Circular 230.

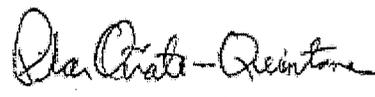
Finally, we strongly disagree with the committee analysis and now the bill's characterization of contingency fees as being inherently counter to good public policy. Similar to the legal profession, the contingency fee mechanism is a valid and valued means of payment by consumers – including by smaller businesses that do not have ready access to funds for up-front payment to access refunds to which they may be fully, legally entitled.

Again, we appreciate your efforts to bring additional efficiencies to the sales tax refund process and we urge removal of the contingency fee ban provision before the measure is pursued further.

Thank you for your consideration of our position.

Sincerely,


Jonathan M. Ross


Pilar Oriate-Quintana

SENATE GOVERNANCE & FINANCE COMMITTEE
Senator Lois Wolk, Chair

BILL NO: AB 1412

AUTHOR: Committee on Revenue & Taxation

VERSION: 5/24/13

CONSULTANT: Miller

HEARING: 7/3/13

FISCAL: Yes

TAX LEVY: No

SALES & USE TAXES: CLAIM FOR REFUND: CUSTOMER REFUNDS

Authorizes a person to irrevocably assign to a customer the right to receive a refund under the Sales and Use Tax

Background and Existing Law

Sales & Use Tax. State law imposes a sales tax on retailers for the privilege of selling tangible personal property, absent a specific exemption. The tax is based upon the retailer's gross receipts from sales in this state. The law provides that any amount collected or paid in excess of what is due under the sales tax law must be credited by the Board of Equalization (BOE) against any other amounts due from the person from whom the excess amount was collected or by whom it was paid, and the balance refunded.

When a sales and use tax is imposed on a customer, but is an amount that is either not taxable or is in excess of the taxable amount, the amount paid must be returned to the customer upon notification by the BOE or the customer.

Contingency fees. Federal law allows the Secretary of the Treasury to regulate practitioners with cases before the Internal Revenue Service (IRS). IRS Circular 230 generally spells out requirements for these practitioners, and also regulates the conduct of anyone providing tax advice or preparing tax returns for compensation, including attorneys, certified public accountants, and enrolled agents. In 2009, IRS revised Circular 230 to bar individuals practicing before the IRS from charging clients contingency fees, with specified exceptions, because of the potential to exploit the audit selection process and compromise a practitioner's duty of independent judgment. Federal law also applies an erroneous claim for refund penalty equal to 20% of the amount of the claim that lacks a reasonable basis for the refund. California does not conform to this penalty. Additionally, the American Institute of Certified Public Accountants Code of Professional Conduct precludes accountants from charging contingency fees for preparing an original or amended tax return, with specified exceptions.

State law restricts commissions charged by certified public accountants in specified circumstances (SB 1289, Calderon, 1998). However, sophisticated cottage industries of non-accountant tax consultants have grown considerably in recent years, offering to amend a taxpayer's previous state income tax returns seeking refunds of previous taxes paid by claiming tax credits not included on the taxpayer's original return. The taxpayer compensates the consultant as a percentage of the refund, providing a significant incentive to file aggressive claims with questionable justification. As many of these consultants are neither accountants subject to state law or codes of ethics, nor practitioners covered by Circular 230, they may charge taxpayers contingency fees without any limitation.

Proposed Law

AB 1412 authorizes a person to irrevocably assign a customer the right to receive a refund under the sales and use tax law. For example, a retailer may make an irrevocable election to assign a customer the right the right to receive the refund if all of the following conditions are met:

1. The amount is in excess of the actual tax owed, pursuant to existing law.
2. The irrevocable election to assign to the customer the amount refunded is provided by a statement signed by the customer authorizing the named customer to receive a refund.
3. The signed statement is submitted to the BOE in conjunction with the person's claim for refund.
4. The amount to be refunded is \$50,000 or greater.

State Revenue Impact

According to the BOE, the impact is indeterminable. To the extent that additional claims involving excess sales tax reimbursement would be filed, this could result in a state and local revenue loss.

Comments

1. Purpose of the bill. This bill is sponsored by the BOE to allow, under limited circumstances, a direct reimbursement to a customer who was overcharged sales tax reimbursement
2. Contingency fees. This bill sets up a refund mechanism for customers who are due large refund amounts, in excess of \$50,000. Under existing law, these refunds are owed and must be paid. The purpose of this bill is to ensure direct and expedited refunds to these customers. Given the ability to assign a single customer the right to collect the tax, this bill may create a cottage industry whereby

a third-party receives the reimbursement on behalf of a customer. Earlier this year, the Committee approved SB 434 (Hill & Wolk) which prohibited contingency fees in connection with enterprise zone tax credits. AB 1412 allows a similar opportunity for contingency fee agreements. *The Committee may wish to consider amending the bill to provide that along with the documentation required by this bill, the taxpayer shall submit a statement that he or she charged or paid any contingency fees in connection with the services allowed by AB 1412, and contingency fees charged or paid in connection with those services are contrary to public policy and the application is null and void.*

Assembly Actions

Assembly Revenue & Taxation	8-0
Assembly Appropriations	18-0
Assembly Floor	78-0

Support and Opposition (6/27/13)

Support: Board of Equalization (sponsor).

Opposition: Unknown.



Department of Consumer Affairs

California Board of Accountancy

Contingent Fees

CALIFORNIA CODE OF REGULATIONS
TITLE 16. Professional and Vocational Regulations
DIVISION 1. Board of Accountancy Regulations

ARTICLE 9 - Rules of Professional Conduct

§ 62. Contingent Fees.

(a) A licensee shall not:

(1) Perform for a contingent fee any professional services for, or receive such a fee from, a client for whom the licensee or the licensee's firm performs:

(A) an audit or review of a financial statement; or

(B) a compilation of a financial statement when the licensee expects or reasonably should expect that a third party will use the financial statement and the licensee's compilation report does not disclose a lack of independence; or

(C) an examination of prospective financial information; or

(D) any other attest engagement when the licensee expects or reasonably should expect that a third party will use the related attestation report; or

(E) any other services requiring independence.

(2) Prepare an original tax return for a contingent fee for any client.

(3) Prepare an amended tax return, claim for tax refund, or perform other similar tax services for a contingent fee for any client.

(4) Perform an engagement as a testifying expert for a contingent fee. The prohibition in (a)(1) above applies during the period in which the licensee or the licensee's firm is engaged to perform any of the services listed under (a)(1) above and the period covered by any historical financial statements involved in any such listed services.

(b) Except as stated in the next paragraph, a contingent fee is a fee established for the performance of any service pursuant to an arrangement in which no fee will be charged unless a specific finding or result is attained, or in which the amount of the fee is otherwise dependent upon the finding or result of such service.

Solely for purposes of this section, fees are not regarded as being contingent if fixed by courts or governmental entities acting in a judicial or regulatory capacity, or in tax matters if determined based upon the results of judicial proceedings or the findings of governmental agencies in a judicial or regulatory capacity or there is a reasonable expectation of substantive review by a taxing authority.

NOTE: Authority cited: Sections 5010 and 5018, Business and Professions Code. Reference: Section 5018, Business and Professions Code.

General Disclaimer

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CBA Item IX.A.
 July 25, 2013

DEPARTMENT OF CONSUMER AFFAIRS
 CALIFORNIA BOARD OF ACCOUNTANCY (CBA)

MINUTES OF THE
May 23-24, 2013
CBA MEETING

DRAFT

Hilton Pasadena
 168 South Los Robles Ave.
 Pasadena, CA 91101
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Roll Call and Call to Order.

CBA President Leslie LaManna called the meeting to order at 3:34 p.m. on Thursday, May 23, 2013 at the Hilton Pasadena. The meeting recessed at 5:43 p.m. President LaManna reconvened the meeting at 9:00 a.m. on May 24, 2013 and the meeting adjourned at 11:32 a.m.

CBA Members

May 23, 2013

Leslie LaManna, President	3:34 p.m. to 5:43 p.m.
Michael Savoy, Vice President	3:34 p.m. to 5:43 p.m.
K.T. Leung, Secretary-Treasurer	3:34 p.m. to 5:43 p.m.
Sarah (Sally) Anderson	3:34 p.m. to 5:43 p.m.
Diana Bell	3:34 p.m. to 5:43 p.m.
Alicia Berhow	Absent
Michelle Brough	3:34 p.m. to 5:43 p.m.
Jose Campos	3:34 p.m. to 5:43 p.m.
Herschel Elkins	3:34 p.m. to 5:43 p.m.
Laurence (Larry) Kaplan	3:34 p.m. to 5:43 p.m.
Louise Kirkbride	3:34 p.m. to 5:43 p.m.
Marshal Oldman	3:34 p.m. to 5:43 p.m.
Manuel Ramirez	3:34 p.m. to 5:43 p.m.
Katrina Salazar	3:34 p.m. to 5:43 p.m.

CBA Members

May 24, 2013

Leslie LaManna, President	9:00 a.m. to 11:32 a.m.
Michael Savoy, Vice President	9:00 a.m. to 11:32 a.m.
K.T. Leung, Secretary-Treasurer	9:00 a.m. to 11:32 a.m.
Sarah (Sally) Anderson	9:00 a.m. to 11:32 a.m.
Diana Bell	9:00 a.m. to 11:07 a.m.
Alicia Berhow	Absent
Michelle Brough	9:00 a.m. to 11:32 a.m.
Jose Campos	9:00 a.m. to 11:32 a.m.
Herschel Elkins	9:00 a.m. to 11:32 a.m.
Laurence (Larry) Kaplan	9:00 a.m. to 11:32 a.m.
Louise Kirkbride	9:00 a.m. to 11:07 a.m.
Marshal Oldman	9:00 a.m. to 11:32 a.m.
Manuel Ramirez	9:00 a.m. to 11:32 a.m.
Katrina Salazar	9:00 a.m. to 11:32 a.m.

Staff and Legal Counsel

Rich Andres, Information Technology Staff
Patti Bowers, Executive Officer
Andrew Breece, Legislative Analyst
Paul Fisher, Supervising Investigative CPA
Dominic Franzella, Chief, Licensing Division
Rafael Ixta, Chief, Enforcement Division
Kathryn Kay, Licensing Coordinator
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
Richard Wolfe, Deputy Attorney General, DOJ

Committee Chairs and Members

Nancy Corrigan, Chair, Peer Review Oversight Committee (PROC)
Cheryl Gerhardt, Chair, Enforcement Advisory Committee (EAC)

Other Participants

Ken Bishop, President and CEO, National Association of State Board of Accountancy (NASBA)
Daniel Dustin, Vice President, NASBA State Board Relations
Jason Fox, California Society of CPAs (CalCPA)
Ed Howard, Center for Public Interest Law
Jonathon Ross, KP Public Affairs
Hal Schultz, CalCPA
Jeannie Tindel, CalCPA

I. Report of the President.

B. Introduction of Members Selected to the Taskforce to Examine Experience for CPA Licensure (Taskforce).

Ms. LaManna introduced members of the Taskforce: CBA members Manuel Ramirez, CPA, Chair; Sally Anderson, CPA; Marshal Oldman, Esq; and Larry Kaplan. CBA Stakeholders: Dan Dustin, CPA, NASBA, Ed Howard, Esq., CPIL; Kris Mapes, CPA, CBA Qualifications Committee; Gary McBride, CPA, CSU East Bay; and Hal Schultz, CPA, CalCPA.

II. Report of the Vice President.

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).

It was moved by Mr. Savoy, seconded by Mr. Ramirez and unanimously carried by those present to appoint Erin Sacco Pineda to the QC.

C. Recommendations for Appointment(s)/Reappointment(s) to the Peer Review Oversight Committee (PROC).

It was moved by Mr. Savoy, seconded by Ms. Bell and unanimously carried by those present to reappoint Katherine Allanson, Nancy Corrigan, Robert Lee, Sherry McCoy, and Seid Sadat as members of the PROC.

It was moved by Mr. Savoy, seconded by Ms. Anderson and unanimously carried by those present to reappoint Nancy Corrigan as Chair of the PROC.

III. Report of the Secretary/Treasurer

A. Discussion of Governor's Budget.

There was no report on this item.

B. FY 2012-2013 Mid-Year Financial Statement.

Mr. Leung provided an overview of this item.

Mr. Ramirez requested that staff provide additional information regarding what level the CBA reserve fund was at when the General Fund borrowed money from the CBA.

IV. Closed Session.

Pursuant to Government Code Section 11126(c)(3), the CBA Convened into Closed Session to Deliberate on Disciplinary Matters (Stipulations, Default Decisions, and Proposed Decisions).

V. Closed Session.

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.*)

VI. Report of the Executive Officer (EO)

A. Update on Staffing.

Ms. Bowers stated that the Enforcement Division will soon begin recruiting to fill two vacancies.

B. Update on 2013-2015 CBA Communications and Outreach Plan (Written Report Only).

There were no comments on this item.

VII. Report of the Licensing Chief.

A. Report on Licensing Division.

Mr. Franzella provided an overview of this item. Mr. Franzella reported that there has been an increase in examination applications. He also stated that the Licensing Division is creating a handbook for the new Practice Privilege provisions.

VIII. Regulations.

A. Discussion and Possible Action to Amend Previously Proposed Text at Title 16, California Code of Regulations Section 70 Regarding Fees.

Mr. Stanley informed the CBA that the Office of Administrative Law now requires a more detailed analysis when fees are being set in regulation. As a result, staff reanalyzed the CBA's rulemaking regarding fees and recommend that the renewal fee be set at \$120, following the two-year fee reduction outlined in the proposal.

It was moved by Mr. Ramirez, seconded by Ms. Bell and unanimously carried by those present to direct staff to take all steps necessary to complete the rulemaking process, including sending out the modified text and Addendum to the Initial Statement of Reasons 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.

IX. Report of the Enforcement Chief.

A. Enforcement Activity Report.

Mr. Ixta presented an overview of this item. Mr. Ixta noted that the report has been expanded to add additional details regarding internal complaints received. Mr. Ixta also stated that there are only three enforcement cases that have been pending over 24 months.

Mr. Ixta stated that the next probation hearings are scheduled to be held in conjunction with the July EAC meeting.

Mr. Ixta reported that the third phase of peer review reporting has begun. Deficiency letters for this phase will be sent in September 2013.

Mr. Ramirez commended the Enforcement Division on reducing the number of enforcement cases that have been pending over 24 months.

IX. Committee and Task Force Reports.

A. Enforcement Program Oversight Committee (EPOC) (Michael Savoy).

1. Report of the May 23, 2013 EPOC Meeting.
2. Discussion and Possible Action Regarding the Proposed Revisions to the Manual of Disciplinary Guidelines and Model Disciplinary Orders.

It was moved by Ms. Bell, seconded by Mr. Ramirez and unanimously carried by those present that the CBA accept the EPOC recommendation to approve the Model Petition for Reinstatement Decision Checklist and add the word "however"

after the phrase “Petitioner’s certificate shall be fully restored.”

B. Legislative Committee (LC) (Larry Kaplan, Chair).

1. Report of the May 23, 2013 LC Meeting.
2. Update on Legislation Which the CBA Has Taken a Position.
 - a. AB 186 – Professions and Vocations: Military Spouses: Temporary Licenses.

It was moved by Ms. Brough, seconded by Mr. Ramirez and unanimously carried by those present to accept the LC’s recommendation that the CBA maintain its Support if Amended position on AB 186 and direct staff to prepare a follow-up letter reiterating the purpose of the proposed amendment to ensure that the applicant’s license is current, active, and unrestricted in their state of licensure.

- b. AB 291 – California Sunset Review Commission.

The CBA accepted the LC’s recommendation that the CBA maintain an Oppose position on AB 291.

3. Consideration of Positions on Legislation

- a. AB 258 – Stage Agencies: Veterans.

It was moved by Mr. Ramirez, seconded by Mr. Campos and unanimously carried by those present to accept the LC’s recommendation that the CBA adopt a Support position on AB 258.

- b. AB 376 – Regulations: Notice.

It was moved by Ms. Brough, seconded by Ms. Salazar and unanimously carried by those present to accept the LC’s recommendation that the CBA adopt a Watch position on AB 376.

- c. AB 1057 – Professions and Vocations: Military Service.

It was moved by Mr. Ramirez, seconded by Mr. Leung and unanimously carried by those present to accept the LC’s recommendation that the CBA adopt a Support position on AB 1057.

- d. AB 1151 – Tax Agent Registration.

It was moved by Ms. Anderson, seconded by Mr. Oldman and unanimously carried by those present to accept the LC's recommendation that the CBA adopt an Oppose position and present a letter to the author explaining the CBA's concerns regarding this bill.

- e. AB 1420 – State Government: State Agencies: Reports.

It was moved by Ms. Brough, seconded by Mr. Oldman and unanimously carried by those present to accept the LC's recommendation that the CBA adopt a Watch position on AB 1420 and direct staff to write a letter to the author explaining that although the CBA supports the amendment to Business and Professions Code Section 5092(e), this bill contains provisions unrelated to the CBA.

- f. SB 176 – Administrative Procedures.

It was moved by Mr. Ramirez, seconded by Mr. Elkins and unanimously carried by those present to accept the LC's recommendation to adopt a Watch position on SB 176 and direct staff to work with the author to address the concerns expressed during the LC meeting.

- g. SB 305 – Healing Arts: Boards.

It was moved by Ms. Anderson, seconded by Mr. Ramirez and carried by those present that the CBA accept the LC's recommendation to adopt a Neutral position on SB 305, and direct staff to work with Ms. Brough to modify the language to narrow the bill's focus. Ms. Brough abstained.

- h. SB 822 – Professions and Vocations.

It was moved by Mr. Elkins, seconded by Mr. Oldman and unanimously carried by those present to accept the LC's recommendation that the CBA adopt a Support position on SB 822.

- i. SB 823 – Accountancy: Licensure.

It was moved by Mr. Ramirez, seconded by Ms. Salazar and unanimously carried by those present to accept the LC's recommendation that the CBA adopt a Support position on

SB 823 and approve the amended language provided by staff and legal counsel.

- j. AB 132 – Personal Income Taxes: Retirement Plans: Early Distributions.

Mr. Ramirez requested that staff send a letter to the author's office stating that the CBA cannot take a position on this bill at this time because the bill does not relate to the CBA.

- 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 872, AB 866, AB 887, AB 894, AB 1013, AB 1017, AB 1057, AB 1114, AB 1151, AB 1219, AB 1420, SB 207, SB 305, SB 417, SB 532, SB 690, SB 742, SB 822 and SB 823).

There was no action on this item.

- 5. Additional Legislation Impacting the CBA Identified by Staff After the Posting of the Meeting Notice.

There was no report for this item.

- 6. Discussion and Possible Action on a Legislative Proposal to Amend Business and Professions Code Section 5087 Regarding Reciprocity of License From Another State.

It was moved by Mr. Ramirez, seconded by Mr. Savoy and unanimously carried by those present that the CBA accept the LC's recommendation to approve staff's proposed amendment and have Ms. LaManna appoint a CBA member to work with stakeholders to address the concerns expressed during the LC meeting.

- C. Taskforce to Examine Experience for CPA Licensure (Taskforce).

- 1. Report of the May 22, 2013 Taskforce Meeting.

Mr. Ramirez reported that the Taskforce held its first meeting on May 22, 2013. Mr. Ramirez stated that the Taskforce discussed what type of information CBA staff should bring to the next meeting to assist the Taskforce. Mr. Ramirez further stated that it would be beneficial for CBA members to attend and listen to future Taskforce meetings.

- 2. Discussion Regarding the Taskforce Purpose and Goal.

There was no action on this item.

3. Overview of Taskforce-Related Resource Material.

There was no action on this item.

4. History and Overview of the Present Licensure Requirements.

There was no action on this item.

5. Discussion on Modifications to the Experience Requirement for CPA Licensure Mandated Pursuant to Business and Professions Code Sections 5092, 5093, and 5095, and Title 16 California Code of Regulations Sections 12 and 12.5.

There was no action on this item.

6. Future Meeting Dates.

There was no action on this item.

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

There was no report for this item.

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

1. Report of the May 2, 2013 EAC Meeting.

Mr. Gerhardt reported that eight investigative hearings were conducted at the EAC meeting. She stated that three cases were referred to the AG's office, one case was referred to CBA staff for additional investigation, three cases were referred for citations and one case was closed. Ms. Gerhardt further stated that the EAC reviewed 14 closed cases and agreed with the staff recommendations on all of the cases.

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

1. Report of the April 24, 2013 QC Meeting.

Mr. Franzella reported that there were four personal appearances and five Section 69 appearances at the QC meeting, and all were approved.

XI. Acceptance of Minutes.

- A. Draft Minutes of the March 21-22, 2013 CBA Meeting.
- B. Minutes of the March 21, 2013 LC Meeting.
- C. Minutes of the March 21, 2013 EPOC Meeting.
- D. Minutes of the January 23, 2013 QC Meeting.
- E. Minutes of the January 31, 2013 EAC Meeting.

It was moved by Mr. Ramirez, seconded by Mr. Campos and carried by those present to accept items XI.A-E.

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. Update on NASBA Committees.
- 2. Nominations for NASBA Board of Directors.

It was moved by Ms. LaManna, seconded by Mr. Ramirez and unanimously carried by those present to nominate Janice Gray for the position of NASBA Director at Large.

- a. Accountancy Licensee Database (ALD) Task Force.

Ms. Bowers stated NASBA has developed an online training resource for the ALD system. Ms. Bowers thanked NASBA for creating this useful resource.

- b. Board Relevance & Effectiveness Committee.

There was no report for this item.

XIV. Closing Business

A. Public Comments.

There were no public comments.

B. Agenda Items for Future CBA Meetings.

Mr. Elkins suggested that Ms. LaManna consider revisiting the role of CBA committee liaisons, specifically the liaison to the Enforcement Advisory Committee.

C. Press Release Focus

Ms. Pearce stated the topic for consideration for a post meeting press release is the Taskforce to Examine Experience for CPA Licensure.

Adjournment.

President LaManna adjourned the meeting at 11:32 a.m. on Friday, May 24, 2013.

_____ 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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LC Item I.
July 25, 2013

CBA Item IX.B.
July 25, 2013

**DEPARTMENT OF CONSUMER AFFAIRS
CALIFORNIA BOARD OF ACCOUNTANCY (CBA)
LEGISLATIVE COMMITTEE (LC)**

**MINUTES OF THE
May 23, 2013
LC MEETING**

DRAFT

Hilton Pasadena
168 S. Los Robles Avenue
Pasadena, CA 91101
Telephone: (626) 577-1000
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CALL TO ORDER

Larry Kaplan, Chair, called the meeting of the Legislative Committee (LC) to order at 2:08 p.m. on Thursday, May 23, 2013 at the Hilton Pasadena. Mr. Kaplan requested that the roll be called.

Present

Larry Kaplan, Chair
Diana Bell
Katrina Salazar
Sally Anderson
Manuel Ramirez
Michelle Brough
Louise Kirkbride

CBA Members Observing

Michael Savoy
Leslie LaManna
Marshal Oldman
Herschel Elkins
Jose Campos

CBA Staff and Legal Counsel

Patti Bowers, Executive Officer

Deanne Pearce, Assistant Executive Officer
Dominic Franzella, Chief, Licensing Division
Rafael Ixta, Chief, Enforcement Division
Kristy Shellans, Senior Staff Counsel, DCA Legal Affairs
Paul Fisher, ICPA Supervisor
Nick Ng, Manager
Kathryn Kay, Licensing Coordinator
Richard Andres, Information Technology Staff
Matthew Stanley, Regulations Analyst
Andrew Breece, Legislation Coordinator
Kari O'Connor, Executive Analyst

Other Participants

Ed Howard, Center for Public Interest Law
Jeanie Tindel, California Society of Certified Public Accountants (CalCPA)
Hal Schultz, CalCPA
John Ross, KP Public Affairs
Tim Kiazirian, California State University, Chico

I. Approve Minutes of the March 21, 2013 LC Meetings

It was moved by Mr. Ramirez, seconded by Ms. Brough and unanimously carried to approve the minutes of the March 21, 2013 LC Meeting.

II. Update on Legislation Which the CBA Has Taken a Position.

A. AB 186 – Professions and Vocations: Military Spouses: Temporary Licenses.

Mr. Breece provided an update on the status of Assembly Bill (AB) 186, which the CBA took a support if amended position at its March 2013 meeting. He stated that this bill would require a board within the Department of Consumer Affairs (DCA) to issue a temporary license to a spouse or domestic partner of an active duty member of the Armed Forces stationed in California. Mr. Breece reported that following the March 2013 CBA meeting, the author amended the bill to incorporate all but one of the CBA's recommended amendments. The remaining amendment is to clarify that an applicant for a temporary license must have a "current, active, and unrestricted" license to practice in the state that issued the license. He stated that staff recommend the CBA maintain its support if amended position and send a follow-up letter reiterating the CBA's proposed amendment.

It was moved by Ms. Bell, seconded by Ms. Anderson, and unanimously carried to recommend that the CBA maintain its Support if Amended position on AB 186 and direct staff to prepare a follow-up letter reiterating the proposed amendment.

B. AB 291 – California Sunset Review Commission

Mr. Breece provided an update on the status of AB 291, which the CBA took an Oppose position at its March 2013 meeting. He stated that this bill would establish the California Sunset Review Commission and eliminate the Joint Sunset Review Committee. Staff recommends the CBA remove its opposition because the author does not plan to pursue this bill until next year, and it is expected that author will incorporate amendments that will address concerns expressed at its March CBA meeting.

Ms. Brough and Mr. Ramirez both stated that the CBA should maintain its oppose position.

III. Consideration of Positions on Legislation.

A. AB 258 – State Agencies: Veterans.

Mr. Stanley stated that AB 258 would require every state agency that asks on any written document, or through its website, whether a person is a veteran, to instead ask, “Have you ever served in the United States military?” He stated that staff recommend the CBA adopt a Support position on the bill.

It was moved by Mr. Ramirez, seconded by Ms. Bell, and unanimously carried to recommend the CBA adopt a Support position on AB 258.

B. AB 376 – Regulations: Notice.

Mr. Stanley stated that AB 376 would require a state agency that enforces a regulation promulgated on or after January 1, 2014 to notify a business that is mandated to comply with the regulation 30 days before the regulation becomes effective. He stated that staff has identified three concerns for this bill; however, this bill is a two-year bill and no further action will be taken this year. He stated that staff recommend the CBA adopt a Watch position on the bill.

It was moved by Mr. Ramirez, seconded by Ms. Anderson, and unanimously carried to recommend the CBA adopt a Watch position on AB 376.

C. AB 1057 – Professions and Vocations: Military Status.

Mr. Stanley stated that AB 1057 would require, beginning January 1, 2015, boards to inquire in every application for licensure if the applicant is serving in, or has previously served in, the military. He stated that this bill is intended to assist veterans in evaluating their military experience. He stated that staff recommend the CBA adopt a Support position on AB 1057.

It was moved by Mr. Ramirez, seconded by Ms. Bell, and unanimously carried to recommend the CBA adopt a Support position on AB 1057.

D. AB 1151 – Tax Agent Registration.

Mr. Stanley stated that AB 1151 would require an individual to register with the Secretary of State in order to represent a taxpayer before a county official. He stated that the only way an individual would be prohibited from practicing as a tax agent would be if they are convicted of any felony under state or federal tax laws, convicted of any other criminal offense involving dishonesty, breach of trust, or moral turpitude, or are disbarred or suspended for any reason other than the failure to pay dues in their licensed profession. Mr. Stanley stated that because this bill does not affect the CBA's mission, staff is not recommending a position and is deferring to the CBA on whether it wishes to take a position on the bill.

Ms. Anderson stated that this bill duplicates the licensing requirements for a CPA.

Ms. Tindel stated that CalCPA is opposed to this bill. CPAs have historically represented clients in property reassessment, and this bill is not correcting the problem the author is attempting to address.

Mr. Ramirez stated he and Ms. Salazar met with the author's office and discussed this bill and he stated that he believes this bill will not address the real problem.

It was moved by Mr. Ramirez, seconded by Ms. Brough, and unanimously carried to recommend the CBA adopt an Oppose position on AB 1151 and present a letter to the author explaining CBA's concerns.

E. AB 1420 – State Government: State Agencies: Reports.

Mr. Stanley stated that AB 1420 contains clean-up language related to the CBA to ensure that the existing pathway one becomes inoperative January 1, 2014. He stated that although this bill relates to the CBA, staff recommend the CBA adopt a Watch position since it contains other provisions unrelated to the CBA.

It was moved by Ms. Anderson, seconded by Ms. Kirkbride, and unanimously carried to recommend the CBA adopt a Watch position on AB 1420 and to direct staff to write a letter to the author's office explaining that although the CBA supports the amendment to Business and Professions (B&P) Code section 5092, it contains provisions unrelated to the CBA.

F. SB 176 – Administrative Procedures.

Mr. Stanley stated that Senate Bill (SB) 176 would require state agencies to submit a notice for publication in the *California Regulatory Notice Register* (Notice Register) prior to any meeting seeking public input during the development of regulations. He stated that the notice would be required to be published in the Notice Register at least 15 days prior to the meeting. Mr. Stanley reported that the CBA is presently required to provide public notice of all of its meetings under the Bagley-Keene Open Meetings Act.

Mr. Stanley stated that staff is working with the sponsor and author to amend the bill to clarify that the informational reports referenced in the bill do not include standard rulemaking documents. He stated that staff recommend that the CBA adopt a Support position on SB 176 as it increases transparency in the rulemaking process.

Ms. Shellans stated that the CBA is already required to provide public notice 10 days prior to CBA meetings. She stated that in order to meet the requirements of the bill, the notice would actually need to be submitted to the Office of Administrative Law 25 days prior to the meeting date to allow 10 days for printing and the 15 days required for publication.

Ms. Shellans stated that this bill could impact the CBA's ability to hold a two-board/committee member meeting, which does not require public notice, and emergency meetings, which only require 48 hour notice.

Ms. Bowers stated that there will be no significant impact on the CBA with good planning. She stated that the CBA encourages public participation, and she would hesitate on opposing legislation that may enhance public participation. Additionally, Ms. Bowers stated that CBA staff can work with the author to request incorporating necessary amendments to address legal counsel's concerns. She suggested the CBA may wish to adopt a Support if Amended or Watch position on SB 176.

Ms. Brough stated that if staff can work with the author's office on amending the bill, then she would move to take a Watch position.

Mr. Ramirez stated that the CBA should work with the author's office to align the notification period with the Bagley-Keene Open Meetings Act and allow agencies to continue to have emergency meetings.

It was moved by Ms. Brough, seconded by Ms. Anderson, and unanimously carried to recommend the CBA adopt a Watch position on SB 176 and direct staff to work with the author to address the concerns expressed during the committee meeting.

G. SB 305 – Healing Arts: Boards.

Mr. Stanley stated that SB 305 would clarify that a board described in B&P Code section 144 may request, and is authorized to receive, certified records of all arrest and convictions, certified records regarding probation, and all other related documents needed to complete an applicant or licensee investigation from a local or state agency. He stated that this provision is intended to clarify that state agencies are authorized to receive the requested information. Mr. Stanley reported that this bill contains additional provisions unrelated to the CBA, and staff recommend that the CBA adopt a neutral position.

Ms. Brough stated that the language is too broadly drafted.

Ms. Shellans stated that this bill is intended to address a problem experienced by some boards within the Department of Consumer Affairs. She stated that some local law enforcement agencies have refused boards access to documents necessary to complete an applicant or licensee investigation.

It was moved by Ms. Anderson, seconded by Ms. Bell, and carried to recommend the CBA adopt a Neutral position on SB 305, and to direct staff to work with Ms. Brough to modify the language to narrow the bill's focus. Ms. Brough abstained.

H. SB 822 – Professions and Vocations.

Mr. Stanley stated that SB 822 is an omnibus bill, and it contains two legislative proposals approved at CBA's January and March meetings relating to practice privilege.

He stated that the first proposal would provide the CBA citation authority over an out-of-state licensee practicing in California under practice privilege, and the second proposal would require an out-of-state licensee practicing in California under practice privilege to notify the CBA of any pending criminal charges. He stated that staff recommend the CBA adopt a Support position on SB 822.

It was moved by Ms. Anderson, seconded by Mr. Ramirez, and unanimously carried to recommend the CBA adopt a Support position on SB 822.

I. SB 823 – Accountancy: Licensure

Mr. Stanley stated that SB 823 is an urgency omnibus bill, which would become effective upon the Governor's signature, and contains two legislative proposals that the CBA voted to approve at its November 2012 and January 2013 meetings. He stated that the first proposal would allow students enrolled in a program that grants concurrent conferral of a master's and baccalaureate degree

to qualify for the Uniform CPA Exam prior to completing the master's degree program if they fulfilled the baccalaureate degree requirements and fulfill certain other requirements.

He stated that the second proposal would allow prospective CPA applicants who complete and pass the Uniform CPA Exam on or before December 31, 2013, two additional years to obtain licensure under the existing pathways. He stated that staff recommend the CBA adopt a Support position on SB 823. Additionally, Mr. Stanley stated that a representative from Chico State was present to discuss possible amendments.

Mr. Kizirian, Chair of the Accounting Department at Chico State, requested the CBA consider amending the language to accommodate schools that develop programs to address the 150 semester unit requirement for licensure that do not necessarily involve master's degrees.

Mr. Stanley stated that staff has provided proposed language that may address Mr. Kizirian's concerns.

Mr. Ramirez stated that the CBA did not intend to create an additional barrier to licensure. Instead, the CBA intended to provide applicants multiple ways of obtaining the 150 required semester units.

It was moved by Ms. Brough, seconded by Mr. Ramirez, and unanimously carried to adopt a Support position on SB 823, and to approve the amended language provided by staff and legal counsel.

J. AB 132 – Personal Income Taxes: Retirement Plans: Early Distributions.

Mr. Stanley stated that AB 132 would, for taxable years, beginning on or after January 1, 2014, and before January 1, 2017, exclude from that additional tax the first \$6,000 distributed to an individual for the purpose of paying qualified costs, with respect to acquisition indebtedness for a principal residence. He stated that this bill does not relate specifically to the CBA and is being presented at the request of the author's office. He further stated that staff does not have a recommended position, and staff is deferring to the CBA as to whether it wants to take a position.

Ms. Brough stated that the CBA should not take a position on legislation that does not relate to the CBA.

Ms. Salazar suggested sending a letter to the author's office explaining why the CBA is not taking a position on AB 132.

IV. 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 1151, AB 1219, AB 1420, SB 207, SB 305, SB 417, SB 532, SB 690, SB 742, SB 822, and SB 823).

Mr. Breece provided an update on legislation the CBA is monitoring. He stated that the majority of the bills being monitored internally, with the exception of AB 393, have either been amended or have become two-year bills.

V. Additional Legislation Impacting the CBA Identified by Staff After the Posting of the Meeting Notice.

No additional legislation was identified by staff after the posting of the meeting notice.

VI. Discussion and Possible Action on a Legislative Proposal to Amend Business and Professions Code Section 5087 Regarding Reciprocity of License From Another State

Mr. Franzella provided a legislative proposal regarding reciprocity of license from another state. He stated that B&P Code section 5087, as presently crafted, allows the CBA to issue a California CPA license to an applicant if he or she holds a valid license in another state and the CBA determined that the standards under which the license was originally issued are substantially equivalent to California's standards.

He stated that the present language necessitates a "look back" requirement to identify the original standards under which the license was issued, which can prove problematic if an individual was licensed several years ago.

Mr. Franzella presented a proposed amendment that would eliminate the look back approach and replace it with a concept similar to that found in California's practice privilege provisions.

Mr. Ross requested to retain some element of look back language in the event a state eventually is removed from the substantially equivalent list.

It was moved by Ms. Anderson, seconded by Ms. Brough and unanimously carried to recommend that the CBA adopt staff's proposed amendment, and recommends for Ms. LaManna to appoint a staff member to work with stakeholders to address the concerns expressed during the Committee meeting.

VII. Public Comments

No public comments were received

VIII. Agenda Items for next meeting

No agenda items were identified.

There being no further business, the meeting was adjourned at 3:23 p.m.



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Taskforce Item I
 July 24, 2013

CBA Item IX.C.
 July 25, 2013

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

MINUTES OF THE
APRIL 24, 2013
TASKFORCE TO EXAMINE EXPERIENCE FOR CPA LICENSURE
(TASKFORCE) MEETING

Hilton Pasadena
 168 S. Robles Avenue
 Pasadena, CA 91101
 Telephone: (626) 577-1000
 Fax: (626) 584-3148

The meeting of the Taskforce was called to order at approximately 9:07 a.m. on May 23, 2013 by Chair, Manuel Ramirez.

Taskforce Members

April 24, 2013

Manuel Ramirez, Chair	9:07 a.m. to 11:20 a.m.
Sarah (Sally) Anderson	9:07 a.m. to 11:20 a.m.
Dan Dustin	9:07 a.m. to 11:20 a.m.
Ed Howard	9:07 a.m. to 11:20 a.m.
Laurence (Larry) Kaplan	9:07 a.m. to 11:20 a.m.
Kris Mapes	9:07 a.m. to 11:20 a.m.
Gary McBride	Absent
Marshal Oldman	9:07 a.m. to 11:20 a.m.
Hal Schultz	9:07 a.m. to 11:20 a.m.

Staff and Legal Counsel

Rich Andres, Information Technology Staff
 Patti Bowers, Executive Officer
 Andrew Breece, Legislative Analyst
 Paul Fisher, Supervising Investigative CPA
 Dominic Franzella, Chief, Licensing Division
 Rafael Ixta, Chief, Enforcement Division
 Kathryn Kay, Licensing Coordinator
 Nicolas Ng, Manager, Administrative Services

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
Matthew Stanley, Regulation Analyst

CBA Members and Committee Chairs

Jose Campos, CBA Member
Nancy Corrigan, Peer Review Oversight Committee (PROC), Chair
Herschel Elkins, CBA Member
Leslie LaManna, CBA President
Katrina Salazar, CBA Member
Michael Savoy, CBA Vice President

Other Participants

Jason Fox, California Society of Certified Public Accountants (CalCPA)
Michael Hass, Qualifications Committee (QC) member
Jeannie Tindel, CalCPA
Jon Ross, KP Public Affairs

I. Introduction of Members Selected to the Taskforce.

Members provided brief introductions.

II. Discussion Regarding the Taskforce Purpose and Goal.

Mr. Ramirez provided members with an overview of the primary purpose and goal of the Taskforce, which is to provide the CBA with possible recommendations related to the requirements for CPA licensure. Mr. Ramirez noted that as the Taskforce embarks on its activities, it will be gaining a fuller understanding of why the CBA maintains its general accounting and attest experience requirements and, most importantly, paying close attention to the CBA's primary responsibility to protect consumers.

III. Overview of Taskforce-Related Resource Materials.

Ms. Kay provided members an overview of the Taskforce-Related Resource Binder that contained CBA experience-related statutes and regulations, CBA-required experience forms, statistical information on the number of licenses issued under California's present pathway system, licensure requirements (including experience) of all fifty-five states and jurisdictions, the most recent version of the Uniform Accountancy Act (UAA) and Model Rules, and previous CBA-and committee-related

discussions on the topic of experience.

Ms. Kay highlighted the pertinent sections of the UAA related to the requirements for licensure. Ms. Kay noted that most states look to the UAA in establishing some of their core licensure requirements, especially those related to what is commonly known as the three Es: Education, Examination, and Experience.

Ms. Kay stated that for the overview of the other state boards of accountancy's licensure requirements, staff provided information obtained from the National Association of State Boards of Accountancy (NASBA) Accountancy Licensing Library (ALL), which serves as a forum for the fifty-five states and jurisdictions to share present and emerging licensure requirements. Ms. Kay highlighted some of the variances staff found while reviewing the requirements.

IV. History and Overview of the Present CPA Licensure Requirements.

Mr. Franzella provided an overview of this item, focusing primarily on the evolution of the CBA requirements for CPA licensure, how an applicant for licensure satisfies the experience requirement, and how staff evaluates whether an applicant has satisfactorily completed the experience requirement.

Ms. Anderson inquired whether general accounting experience is reviewed by the CBA's Qualifications Committee (QC). Mr. Franzella stated that this is not something the QC typically evaluates.

Mr. Ramirez inquired whether eliminating Pathway 1 would enhance California's substantial equivalency. Mr. Franzella stated that the CBA is on that path with the new educational requirements, which are set to take effect January 1, 2014.

Mr. Dustin provided additional clarification for members on NASBA's substantial equivalency list and stated that substantial equivalency is weighted toward the 150 semester unit requirement.

Ms. Anderson inquired if other states have a committee similar to the QC, to review general experience. Mr. Dustin stated that many times boards will have a subcommittee that reviews experience, other times it is delegated to board staff. Mr. Dustin further stated that many boards require an attestation by a CPA to ascertain the experience.

Mr. Dustin stated that there is a nationwide trend to shift toward a general experience requirement as outlined in the UAA.

Mr. Ramirez stated that the CPA profession is the only profession in the

United States licensed to issue an opinion on the accuracy of financial statements. Mr. Ramirez stated he understands the profession changes; however, maybe there should be some higher level of standard for CPAs that don't provide audit services. Mr. Ramirez questioned whether the CBA should follow the other states or if there is value in the 500-hour requirement. Mr. Ramirez further questioned what is in the best interest of consumers.

Mr. Schultz stated it is important that there be assurance to consumers that a CPA who is providing audit services is qualified to provide such service.

Mr. Howard stated that movement away from an attest experience requirement raises questions about the CPA license. Mr. Howard further stated the difficult task before the CBA is to balance any change in the experience requirement, while maintaining the assurance of consumer protection.

Mr. Dustin stated other states have adopted requirements that allow for a broad general experience for licensure provision, then peer review, continuing education, and firm registration would be measures to address concerns regarding whether a CPA is qualified to perform attest services.

Mr. Ramirez stated that while the Taskforce evaluates the 500-hour attest requirement, it should keep in mind that peer review is a measure in place to ensure consumer protection.

Mr. Howard stated that CPIL's position is to try and retain the attest experience requirement; however, he is open to other solutions. Mr. Howard reiterated that the emphasis should be on consumer protection. Mr. Howard further stated that it is important to describe the downsides and to figure out ways to replicate the advantages for the public and the profession.

Mr. Schultz stated that CalCPA's opinion is that the requirements for licensure more closely align with the UAA.

Mr. Savoy shared a recent experience in which a partner from his firm applied for licensure in another state. His partner was unable to obtain licensure because he did not meet the state's 150 semester unit requirement, although all other requirements were met.

Mr. Savoy added he did not believe the 500 attest hours are sufficient for qualifying an individual for licensure because during those first 500 attest hours, the individual does not supervise others. He stated that supervising and managing others is a key component of experience and gives an individual more knowledge than education alone.

Ms. LaManna noted her mixed feelings on the issue. She expressed to members that she had a difficult time obtaining her 500 hours for attest licensure, however, she felt the 500 hours made her more knowledgeable. She stated that although she holds an attest license, she would decline doing an audit for a client for ethical reasons as audits do not fall into her area of expertise.

Ms. LaManna proposed adding disclosure information on the continuing education licensees have met to the CBA Website License Lookup so that consumers can have more information when evaluating the selection of a CPA.

Ms. Shellans added that the rules of professional conduct is in the law and members could consider further defining ethical standards to ensure licensees take continuing education related to their area of practice. Mr. Fisher directed members to CBA Regulation section 58, which addresses compliance with professional standards.

Mr. Oldman stated that the barrier for entry is a balancing matter. Mr. Oldman stated the 500-hour requirement is not particularly meaningful for those who want to perform audits. Mr. Oldman further stated he does not believe that the consumer is informed of anything by the fact that an individual has an "A" next to his/her license as a result of having 500-hours of attest experience.

Ms. Anderson stated that the best thing the CBA has done for consumer protection has been securing the passage of peer review. Ms. Anderson further stated that she could go either way regarding this matter and, that in the long run, the requirement does not designate someone as an audit expert.

Mr. Ramirez stated if the CBA did eliminate the 500-hour attest requirement, then a practical solution could be to require experience in the area of practice.

Mr. Howard questioned what the CPA license means when it comes to attest and is the person who attains a CPA license allowed to perform the attest function on the basis of what qualifications. Mr. Howard stated that his preference for qualification is experience. Mr. Howard further stated that moving away from experience to purely education is not in the best interest of consumers.

Mr. Schultz noted that Section 5(f) of the UAA outlines that the one year general experience requirement allows academic experience to qualify toward licensure, while California does not allow this type of experience.

Ms. Mapes stated she is not convinced that eliminating the 500-hour attest requirement would be effective in qualifying applicants for CPA licensure.

Mr. Haas expressed concern over potential elimination of the current 500-hour attest requirement because it may be harmful to consumers.

V. Discussions on Modifications to the Experience Requirement for CPA Licensure Mandated Pursuant to Business and Professions Codes sections 5092, 5093, and 5095 and Title 16 California Code of Regulations sections 12 and 12.5.

Mr. Franzella provided an overview of this item. Mr. Franzella outlined next steps that the Taskforce may wish to consider, such as the Taskforce could begin identifying additional options not previously considered by the CBA or its various committees. Mr. Franzella further stated that with additional clarification and direction, staff will be better equipped to begin evaluating how certain recommendations may impact the CBA and its stakeholders, provide a timeline to achieve the various recommendations, and assess how the various recommendations align with the CBA's priorities regarding consumer protection.

Members directed staff to perform additional research in the following areas for discussion at the next meeting:

- For those states with a general accounting experience requirement, determine if they employ a committee similar to the QC to assist in evaluating experience for licensure.
- Provide a fuller understanding of other states' definitions for experience.
- Provide the Taskforce with information showing how the CBA and other states display information to consumers regarding the types of services a licensee can perform.
- Provide information on which states allow for applicants to obtain qualifying experience via academia.
- Provide the percentage of California licensees in public practice versus non-public.
- What specialization certifications exist within the CPA profession whether regulated by governmental or non-governmental bodies.
- Provide enforcement-related statistics, especially those on complaints received regarding licensees with general accounting experience performing attest services.

- Provide court cases regarding the use of the term “accountant,” including the Bonnie Moore case.

VI. Future Meeting Dates.

The committee was presented a meeting calendar for 2013. It was noted that Taskforce meetings will be held concurrently with CBA meetings.

VII. Agenda Items for Next Meeting.

None.

VIII. Public Comments.

None.

Adjournment.

There being no further business to be conducted, the meeting was adjourned at 11:20 a.m.

The next meeting of the Taskforce will be held on July 24, 2013.



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CBA Item IX.D.
 July 25, 2013

**CALIFORNIA BOARD OF ACCOUNTANCY (CBA)
 PEER REVIEW OVERSIGHT COMMITTEE (PROC)**

**MINUTES OF THE
 FEBRUARY 22, 2013
 PROC MEETING**

Hilton North Los Angeles/Glendale
 100 West Glenoaks Blvd.
 Glendale, CA 91202
 (818) 956-5466

<u>PROC Members:</u>	<u>February 22, 2013</u>
Nancy Corrigan, Chair	9:38 a.m. – 12:24 p.m.
Robert Lee, Vice Chair	Absent
Katherine Allanson	9:38 a.m. – 12:24 p.m.
Sherry McCoy	9:38 a.m. – 12:24 p.m.
Seid M. Sadat	9:38 a.m. – 12:24 p.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)

I. Roll Call and Call to Order.

Nancy Corrigan, Chair, called the meeting of the Peer Review Oversight Committee (PROC) to order at 9:38 a.m.

II. Report of the Committee Chair.

A. Approval of December 4, 2012 Minutes.

Ms. Corrigan asked if members had any edits to the minutes of the December 4, 2012 PROC meeting. Linda McCrone had a correction to item VII. regarding the CalCPA Annual Report to the CBA. It should read, "... the annual report for each of the past three years will be posted on their website."

It was motioned by Seid Sadat, seconded by Sherry McCoy, and unanimously carried by those present to accept the revision and adopt the revised minutes of the December 4, 2012 PROC meeting.

B. Report on the January 24-25, 2013 CBA Meeting.

Ms. Corrigan stated that she attended the CBA meeting on January 24; however, she did not attend the CBA meeting on January 25 as she and Ms. Allanson attended the AICPA Peer Review Board meeting.

Ms. Corrigan reported to the CBA on the PROC oversight functions it has been performing. She reported that CBA members had three questions regarding the PROC:

(1) **What is the future of the PROC, its continuity, and how long will it be around?**

Ms. Corrigan stated that the PROC is mandated by law and it has established itself as a prominent committee in the United States. The PROC will continue to conduct its oversight functions and it will submit its second Annual Report to the CBA in March 2013.

(2) **What are other states' PROCs doing?**

Ms. Corrigan replied that there are five to six states with very active PROCs, including California. The PROC has been very aggressive in tackling peer review oversight issues. Some states are very small with no resources and are unable to be proactive.

(3) **What is the continuity of PROC members?**

Ms. Corrigan stated that since all of the PROC members were appointed to the PROC at the same time, there is a potential risk in continuity if all members are rotated off at the same time. However, the CBA recently rotated two members off. This created two vacancies and Ms. Corrigan will be recommending the appointment of a new member. Also, Mr. Lee was appointed as Vice Chair. The Vice Chair position may also be rotated. These changes should ensure the continuity of the PROC.

Mr. Ixta asked Ms. McCrone if she knows of anyone who might be interested in being a member of the PROC. Ms. McCrone stated that she will look into this. If anyone is interested, they should contact Ms. Corrigan.

III. Report on PROC Activities.

A. Report on the January 10, 2013 California Society of Certified Public Accountants' (CalCPA) Report Acceptance Body (RAB) Meeting.

PROC members were unable to attend due to scheduling issues.

B. Report on the January 25, 2013 American Institute of Certified Public Accountants (AICPA) Peer Review Board (PRB) Meeting.

Ms. Corrigan reported that she and Ms. Allanson attended the AICPA PRB meeting. Ms. Allanson said that she was impressed at the commitment of the AICPA members, and stated that they are technically capable and are making the peer review process user friendly. Ms. Corrigan added that the subcommittee members are prepared and detailed, have read all of the reports ahead of time, are open to input, and are devoted to the peer review process.

C. Report on the January 29, 2013 CalCPA RAB Meeting.

PROC members were unable to attend due to schedule conflicts at the last minute.

Ms. Corrigan stated that she wants to make sure we are coordinating well enough in advance with CalCPA so that we aren't inconveniencing them. Ms. McCrone said it was a problem in Glendale since it is a small space and they had reserved it for us and had turned others away who also requested the space. She said that the PROC is welcome to attend any teleconference, but to make sure we attend if we commit. Mr. Ixta said that if there are competing demands for space, to let CBA staff know. The PROC has flexibility when it can attend oversight functions. He also stated that CBA staff member Julie Morrow is the point of contact.

D. Discussion of the 2013 Administrative Site Visit of CalCPA.

Mr. Lee and Ms. McCoy will conduct the administrative site visit of CalCPA. Ms. McCoy stated that the engagement letter has been drafted and the checklist has been completed. They need to decide if they want to do the same thing as last year or enhance their efforts. Ms. McCoy asked for feedback from PROC members regarding the site visit. Mr. Ixta suggested that Ms. McCoy and Mr. Lee put together a plan and submit it to Ms. Corrigan and Mr. Ixta for review. He also said that when in doubt, they should refer back to CBA regulation section 48 and review the minimum requirements. Ms. McCoy said that the engagement letter specifies a specific period using the calendar year ended on December 31. Ms. McCrone said that it is not a good date since records are shredded after 120 days of acceptance. She suggested using the RAB acceptance date; rather than the calendar year end. Ms. McCoy said that last year they reviewed 10-12 files and it required a lot of time. This year the site visit is scheduled for two days which will allow more time. Mr. Ixta suggested that they should focus on one element each year and to plan a three year audit cycle.

E. Discussion of CalCPA's Annual Report on Oversight.

Mr. Ixta had a question on page seven of the report regarding the table on California firms. Ms. McCrone said that the first column is entities where one owner of the firm is a member of AICPA and is considered an AICPA peer review firm. In the second column, no one is a member of the AICPA. Both groups are treated the same by CalCPA, but the AICPA statistically separates. Mr. Ixta asked for clarification on the meaning of "not performing," specifically whether this means they failed or passed with deficiencies. Ms. McCrone said that it depends if a system or engagement review was conducted. She stated that there is more discretion in a system review and a system review can be deficient in one area and not necessarily fail. Additionally, in engagement reviews they don't have that discretion and if they find one thing wrong, most will go to a pass with deficiency but some receive a fail. For example, not complying with SSARS 19 or not getting an engagement letter. Ms. Allanson said that some states don't require a peer review for compilations without disclosures and maybe in the future California will change.

Mr. Sadat asked how the process works if a firm doesn't agree with the peer review deficiency. Ms. McCrone discussed the process: if they disagree, they can submit documentation to support their position, they can teleconference with CalCPA, then it can go to a hearing with three to four committee members and that group will make a decision. In 17 years only one case has gone to the AICPA. The process is in the RAB handbook in chapters seven and eight.

Mr. Sadat expressed concern, as a licensee can lose their license because a peer reviewer finds that licensee is performing substandard work. If there are two

deficiencies in a row, it is problematic. Ms. McCrone said that the whole point is to be an educational process. Mr. Ixta said that if there are two fails in a row, the enforcement division will investigate to see what is behind the failed reviews. They look at corrective actions to make sure they comply with CalCPA.

F. Assignment of Future PROC Activities.

Ms. Corrigan made/confirmed the following assignments:

- March 21-22 CBA Meeting – Nancy Corrigan.
- April 18, 2013 CalCPA RAB Meeting – Seid Sadat & Nancy Corrigan.
- May 7, 2013 AICPA PRB Meeting – Seid Sadat & Kathy Allanson.
- May 8, 2013 Peer Review Class (San Mateo) – TBD.
- May 9-10, 2013 CalCPA Peer Review Committee (PRC) Meeting (San Diego) – Seid Sadat & Kathy Allanson.
- May 23-24 CBA Meeting – Nancy Corrigan.
- July 10, 2013 PROC Summit in Nashville (pending approval) – Nancy Corrigan.
- July 25, 2013 Advanced Peer Review Class (So. Cal) – Seid Sadat will attend. Kathy Allanson can attend as a representative, unless the new member would like to attend and provide oversight.

Mr. Ixta directed staff to seek approval to attend the PROC Summit in Nashville, Tennessee and to start the approval process in May. Since the summit will be held in a new fiscal year, maybe Ms. Corrigan will be able to attend.

Ms. McCrone said that she will not be at the June 21, 2013 PROC meeting. Jason Fox will attend in her absence.

IV. Reports and Status of Peer Review Program.

A. Updates on Peer Review Reporting Forms Received and Correspondence to Licensees.

Ms. Morrow reported that as of January 15, 2013, 51,110 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	2,454	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

Mr. Sadat asked if all of the 717 licensees still needed to report from phase 1 have received citations. April Freeman stated that some of these licensees have extensions and we are following up with them to see if they got a peer review and haven't yet reported.

Ms. Morrow stated that Enforcement staff is in the process of sending approximately 10,000 letters to licensees who are required to submit a Peer Review Reporting Form by July 1, 2013, but have not yet done so. The letters are currently in the review process. They were slated to be sent by the end of February, but will go out in March due to the mass mailing process.

Ms. Morrow also stated that in January and February 2013, Enforcement staff issued 1,799 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.

B. Status of PROC Roles and Responsibilities Activity Tracking.

Ms. Morrow stated that the activity tracking chart for 2012 is included and has been updated to reflect 2012 activities that have been completed as of December 31, 2012. The activity tracking chart for 2013 has been updated to capture recently attended activities and upcoming events as of January 28, 2013.

V. Report of the Enforcement Chief.

A. Approval of the 2012 Annual Report to the CBA.

Mr. Ixta stated that the Annual Report is now complete and a motion to adopt is needed.

It was motioned by Mr. Sadat, seconded by Ms. McCoy, and unanimously carried by those present to adopt the 2012 PROC Annual Report.

B. FAQs to Address the Impact of Peer Review on Retirees, Dissolved Corporations and Partnerships, and Second Phase of Reporting).

Mr. Ixta stated that attachment 1 lists the current FAQs and attachment 2 lists the proposed FAQs. The proposed FAQs reflect regulatory and statutory law changes. Ms. McCrone asked if licensees have to file a Peer Review Reporting (PR-1) form if they are inactive. Mr. Ixta said that proposed regulation 45 requires all licensees to complete a PR-1 each time they renew their license. A question will be added to the renewal form where they will need to state if a PR-1 has been filed. Ms. McCrone said this is confusing because they don't have to do the education so why would they have to file the PR-1? Mr. Ixta said that this will be a change since inactive licensees were excluded previously from the peer review mass mailings letters. However, with the transition, all licensees will receive the PR-1 question on the renewal form and mass mailings are not being planned. Failure to file the PR-1 may prevent a licensee renewing timely.

Ms. Allanson asked if we should consider adding an FAQ for people who have a dispute with the peer review process. That way, there is an FAQ on the CBA's website. Mr. Sadat will write the FAQs for the peer review due process.

It was motioned by Mr. Sadat, seconded by Ms. Allanson, and unanimously carried by those present to accept the FAQs and add more later as needed.

C. Review and Discussion of Comments Received From the Voluntary Peer Review Survey.

Mr. Ixta said that he planned to bring the comments from the voluntary peer review survey to the meeting, however, many comments were not about peer review. He proposed the creation of a two person task force to review all the comments and report back to the PROC on those comments that pertained to peer review. Ms. Corrigan and Mr. Sadat will be on the task force and Ms. Morrow will provide the comments to them.

D. Discussion of AICPA Peer Reviews Conducted by Administering Entities Other than CalCPA and the National Peer Review Committee.

Mr. Ixta said the information listed on the issue paper came from the PR-1 forms filed. About 137 peer reviews were conducted by other entities other than CalCPA and the National Peer Review Committee (NPRC). The issue the PROC needs to decide is how much oversight to provide over the 28 other administering entities that have accepted a peer review of a California licensee. Ms. McCrone said these are mainly small to mid-sized firms or sole practitioners who moved to another state and aren't doing much accounting and auditing work in California, but didn't want to give up their California license. Mr. Sadat said we should look at firms in Oregon and Nevada. Mr. Ixta stated that we could select some firms for monitoring and first do a background analysis to see what type of work they are doing.

Ms. McCrone asked how the PROC would oversight these other states since we can't travel out of state. Mr. Ixta suggested that if the number of firms in a state is low, maybe the PROC could just look at AICPA reports since they are diligent when doing peer reviews. If the number of firms falls in the medium category, they could look at AICPA reports and their state PROC. Mr. Sadat said that the PROC should come up with a proposal on oversight so future PROCs know this issue was addressed. Ms. McCrone pointed out that the AICPA report is on their website and is accessible. Ms. Corrigan suggested that a task force be created in the future. Mr. Ixta recommended that they take the top five states and look at their AICPA peer review report and the PROC committee report. Ms. Corrigan suggested we table this until the next meeting and then decide what action to take.

E. Discussion and Possible Action Regarding PROC's Response to the National Association of State Boards of Accountancy's Compliance Assurance Committee's October 18, 2012 Letter Regarding Oversight of the National Peer Review Committee.

The PROC reviewed the draft letter to NASBA. There were no revisions.

It was motioned by Ms. Allanson, seconded by Mr. Sadat, and unanimously carried by those present to accept the letter as finalized and send to NASBA.

Ms. Morrow will forward the finalized letter to Ms. Corrigan for signature.

F. Discussion and Possible Action Regarding Correspondence Received Regarding Peer Review's Impact on Small Businesses.

Mr. Ixta stated that past CBA President, Marshal Oldman, assigned a letter from Joanne Schwarzer to the PROC for further study and consideration. Given that a report on the mandatory peer review program is due to the Governor and Legislature in 2015, CBA staff recommends the PROC take no further action on the letter because

it is premature to recommend any policy or legislative changes until the report is prepared.

Mr. Sadat said that Ms. Schwarzer is performing engagements in the two highest risk areas and they are very technical. CBA regulation section 48 on peer review was created to ensure licensees have the required technical skills and knowledge to perform engagements in accordance with professional standards. Ms. McCoy asked how many letters have we received of this nature and asked if there is anything else that can be done, such as enhancing the educational process. Mr. Ixta stated that about a dozen similar letters have been received. Ms. Freeman said we have received more phone calls on this issue. Ms. McCoy does not think we should wait until 2015 to respond. Mr. Sadat suggested she receive a letter stating we will do a consideration and study the issue, but did not know if the letter should come from the PROC or from Patti Bowers stating what the PROC decided.

It was motioned by Ms. Allanson, seconded by Mr. Sadat, and unanimously carried by those present to assign Ms. Corrigan and Mr. Lee to work with Executive staff to clarify what action the PROC should take.

Mr. Sadat added that Ms. Schwarzer deserves a response explaining the purpose of peer review, possibly including statistics from PRISM, and to educate her and let her know that she is free to come to meetings. He also suggested that the PROC look at the population of people who feel this way and see if there is anything can we do. He also said that the response can either state that we are accumulating information on this issue and will study it, or we can say that people are unhappy.

VI. Future Agenda Items.

Future agenda items include:

- Provide comparison of California PROC to what other states are doing.
- FAQs to address CalCPA's appeal process for peer reviews with deficiencies and failed peer review.
- Task force report of comments received from the peer review survey.
- AICPA peer reviews conducted by administering entities other than CalCPA and NPRC.
- Response to Schwarzer letter.
- Provide comparison of California PROC to PROCs in other states.
- Request PROC to explore the percentage of California CPAs subject to peer review in other states, to see if our population is consistent with other states.
- Report on site visit of CalCPA.

VII. Public Comment for Items Not on the Agenda.

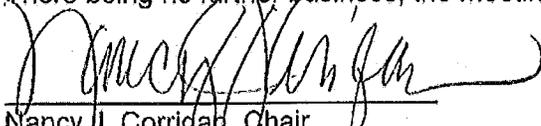
Mr. Ixta reported that Jeannie Tindel of CalCPA asked him if he could do a Q&A interview regarding peer review citations and the top citation violations. The interview will appear in the March/April edition of the California CPA magazine, in the Capitol Beat section.

Ms. McCoy suggested that an article could be written for *Update* on Ms. Schwarzer's concerns. It could discuss why CPAs doing audits/compilations are subject to peer review.

Ms. Corrigan thanked Ms. Freeman for her dedication and hard work to the PROC.

VIII. Adjournment.

There being no further business, the meeting was adjourned at 12:24 p.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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CBA Item XI.C.
July 26, 2013

Press Release Focus

Presented by: Deanne Pearce, Assistant Executive Officer

Date: July 10, 2013

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 press releases since the May 2013 CBA meeting; one post-meeting release, which focused on legislative proposals meant to ease the transition to the new education requirements in 2014, and the second encouraging consumers to ask their CPAs about peer review. A third release was issued April 24 regarding the Interim Suspension Order (ISO) against a Roseville, CA licensee, and there were 12 additional enforcement action releases. A press advisory notifying the media of the May meeting is scheduled to be sent out May 20, 2013.

Comments

None.

Fiscal/Economic Impact Considerations

None.

Recommendation

Staff recommendation will be made at the time of this presentation.

Attachments

1. Legislative Proposals Press Release
2. Consumers Encouraged to Ask Their CPA About Peer Review Press Release
3. Harmon ISO Press Release
4. Enforcement Action Press Releases



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Attachment 1

NEWS RELEASE

FOR IMMEDIATE
RELEASE

Contact: Lauren Hersh
(916) 561-1789

TASKFORCE TO EXAMINE EXPERIENCE REQUIREMENTS FOR CPA LICENSURE CONVENES

Members will evaluate experience requirements in California and other states in light of consumer protection goals

(Sacramento, CA) – CBA President Leslie J. LaManna has convened the Taskforce to Examine Experience for CPA Licensure (Taskforce) which held its inaugural meeting in Pasadena on May 23, 2013. The Taskforce will evaluate the experience required to become a Certified Public Accountant in California, keeping its focus on what is in the best interests of California consumers.

Taskforce Chair and CBA member Manuel Ramirez, CPA, says the Taskforce will immerse itself in many different aspects of accounting experience.

“Because the primary purpose of the Taskforce is to provide the CBA with recommendations regarding the requirements for CPA licensure, said Ramirez, “we will be gaining a fuller understanding of why the CBA maintains its current requirements, and exploring other states’ experience requirements.”

“Most importantly,” Ramirez continued, “we’ll be paying close attention to the CBA’s primary responsibility to protect consumers.”

In addition to Ramirez, members of the Taskforce include CBA members Sally Anderson, CPA, Larry Kaplan and Marshal Oldman, Esq. Other members are Dan Dustin, CPA, Ed Howard, Esq., Kris Mapes, CPA, Gary McBride, CPA and Hal Schultz, CPA.

The next meeting of the Taskforce will be July 24, 2013 in Sacramento.

The CBA maintains a wealth of information regarding its programs and activities at www.cba.ca.gov. You may also find us on Facebook @

<https://www.facebook.com/CBAnews>, Twitter @ <https://twitter.com/CBANews>
and Pinterest @ <http://pinterest.com/cbanews/boards/>

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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 85,000 licensees, the largest group of licensed accounting professionals in the nation, including individuals, partnerships, and corporations.



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Attachment 2

California Board of Accountancy Enforcement Action News Release

Sent to business@latimes.com and rebecca.whitnall@patch.com (Encino-Tarzana Patch) on July 1, 2013

Richard Jay Birnbaum, Tarzana, CA (CPA 38463) has been disciplined by the California Board of Accountancy. Please utilize the attached link to the California Board of Accountancy's Web page to access details of this enforcement action. Please contact Patti Bowers, Executive Officer, by telephone at (916) 561-1718 or by e-mail at pbowers@cba.ca.gov should you have any questions regarding this enforcement action.

http://www.dca.ca.gov/cba/discipline/index.shtml#B_785

Sent to business@latimes.com and Jessica.Hamlin@patch.com (Pasadena Patch) on July 1, 2013

Thomas Edward Hart, Pasadena, CA (CPA 56052) and Highpoint Partners, LLP, Pasadena (PAR 6935) have been disciplined by the California Board of Accountancy. Please utilize the attached links to the California Board of Accountancy's Web page to access details of these enforcement actions. Please contact Patti Bowers, Executive Officer, by telephone at (916) 561-1718 or by e-mail at pbowers@cba.ca.gov should you have any questions regarding these enforcement actions.

http://www.dca.ca.gov/cba/discipline/index.shtml#H_902

http://www.dca.ca.gov/cba/discipline/index.shtml#H_635

Sent to business@latimes.com, and Lindsey.Baguio@patch.com (Sunland-Montrose-La Crescenta Patch) on July 1, 2013

Robert Leslie Hymers III, Sunland, CA (CPA 102259) has been disciplined by the California Board of Accountancy. Please utilize the attached link to the California Board of Accountancy's Web page to access details of this enforcement action. Please contact Patti Bowers, Executive Officer, by telephone at (916) 561-1718 or by e-mail at pbowers@cba.ca.gov should you have any questions regarding this enforcement action.

http://www.dca.ca.gov/cba/discipline/index.shtml#H_718

Sent to business@ocregister.com on July 1, 2013

Russell Guy Marshburn, Santa Ana, CA (Applicant) has been disciplined by the California Board of Accountancy. Please utilize the attached link to the California Board

of Accountancy's Web page to access details of this disciplinary action. Please contact Patti Bowers, Executive Officer, by telephone at (916) 561-1718 or by e-mail at pbowers@cba.ca.gov should you have any questions regarding this disciplinary action.

http://www.dca.ca.gov/cba/discipline/index.shtml#M_1060

Sent to pwevurski@thecalifornian.com, editors@montereyherald.com and Gilroy@patch.com on July 1, 2013

Stanley Ng, Salinas, CA (CPA 67107) has been disciplined by the California Board of Accountancy. Please utilize the attached link to the California Board of Accountancy's Web page to access details of this enforcement action. Please contact Patti Bowers, Executive Officer, by telephone at (916) 561-1718 or by e-mail at pbowers@cba.ca.gov should you have any questions regarding this enforcement action.

http://www.dca.ca.gov/cba/discipline/index.shtml#N_991

Sent to news@pe.com (Riverside Press Enterprise) and toni.mcallister@patch.com on July 1, 2013

Nathaniel Prentice Paredes, Riverside, CA (Applicant) has been disciplined by the California Board of Accountancy. Please utilize the attached link to the California Board of Accountancy's Web page to access details of this enforcement action. Please contact Patti Bowers, Executive Officer, by telephone at (916) 561-1718 or by e-mail at pbowers@cba.ca.gov should you have any questions regarding this enforcement action.

http://www.dca.ca.gov/cba/discipline/index.shtml#P_1025

Sent to business@mercurynews.com (San Mateo County Times), news@smdailyjournal.com (San Mateo Daily Journal) and vanessa@patch.com (Redwood City-Woodside Patch) on April 30, 2013

Lawrence K Y Pon and Pon & Associates, Redwood City, CA (CPA 59490 and FNP 1214) have been disciplined by the California Board of Accountancy. Please utilize the attached links to the California Board of Accountancy's Web page to access details of these enforcement actions. Please contact Patti Bowers, Executive Officer, by telephone at (916) 561-1718 or by e-mail at pbowers@cba.ca.gov should you have any questions regarding these enforcement actions.

http://www.dca.ca.gov/cba/discipline/index.shtml#P_987

http://www.dca.ca.gov/cba/discipline/index.shtml#P_992

Sent to bizeds@sfchronicle.com on July 1, 2013

Robert J. Schwei, San Francisco, CA (CPA 33655) has been disciplined by the California Board of Accountancy. Please utilize the attached link to the California Board

of Accountancy's Web page to access details of this enforcement action. Please contact Patti Bowers, Executive Officer, by telephone at (916) 561-1718 or by e-mail at pbowers@cba.ca.gov should you have any questions regarding this enforcement action.

http://www.dca.ca.gov/cba/discipline/index.shtml#S_1019

Sent to strousdale@bayareanewsgroup.com (Contra Costa Times) and jim.caroompas@patch.com on July 1, 2013

Robert L. Turner, Walnut Creek, CA (CPA 76494) has been disciplined by the California Board of Accountancy. Please utilize the attached link to the California Board of Accountancy's Web page to access details of this enforcement action. Please contact Patti Bowers, Executive Officer, by telephone at (916) 561-1718 or by e-mail at pbowers@cba.ca.gov should you have any questions regarding this enforcement action.

http://www.dca.ca.gov/cba/discipline/index.shtml#T_924

Sent to jbungart@timesheraldonline.com (Vallejo Times-Herald) and Keri.Brenner@patch.com (Vallejo-Napa Valley Patch) on July 1, 2013

Crisostomo P. Villanueva and Cris P. Villanueva, CPA, Inc., Vallejo, CA (CPA 37981 and COR 6150) have been disciplined by the California Board of Accountancy. Please utilize the attached links to the California Board of Accountancy's Web page to access details of these enforcement actions. Please contact Patti Bowers, Executive Officer, by telephone at (916) 561-1718 or by e-mail at pbowers@cba.ca.gov should you have any questions regarding these enforcement actions.

http://www.dca.ca.gov/cba/discipline/index.shtml#V_878

http://www.dca.ca.gov/cba/discipline/index.shtml#C_1369
