



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



**CBA Item VII.A.**  
November 15-16, 2012

**Consideration of an Adverse Comment Received on the 15-Day Notice of Modified Text Regarding Title 16, California Code of Regulations (CCR) Sections 12, 12.5, 37, 80, 80.1, 80.2, 81, 87, 87.1, 87.7, 87.8, 87.9, 88, 88.1, 88.2, and 89 – Continuing Education**

**Presented by:** Matthew Stanley, Regulations Analyst  
**Date:** October 18, 2012

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**Purpose of the Item**

The purpose of this agenda item is to present an adverse comment received regarding proposed changes to the California Board of Accountancy's (CBA) Continuing Education (CE) regulatory proposal.

**Action(s) Needed**

The CBA will be asked to determine what action, if any, it wishes to take regarding the comment.

**Background**

At its September 2012 meeting, the CBA approved changes to its CE regulatory proposal following the public hearing on the proposal. One of the changes that was made was to redefine the fraud CE requirement from "detection and/or reporting of fraud in financial statements" to "prevention, detection and/or reporting of fraud affecting financial statements," thus expanding the scope of the fraud CE course.

This change was proposed by the California Society of Certified Public Accountants (CalCPA) along with other comments on the proposal. One of CalCPA's other suggestions was to leave the fraud CE course at its current eight hours rather than reducing it to four hours. This suggestion was rejected by the CBA at the September meeting.

The changes that were approved by the CBA were publically noticed for the required 15-day comment period which ended on October 18, 2012. CalCPA submitted another comment (**Attachment 1**) on the proposed changes which was of a substantial nature requiring that it be brought back before the CBA for consideration.

**Comments**

CalCPA's comment addresses the proposal for reducing the fraud CE hours from eight to four hours. It believes that the proposed expanded definition for fraud addresses the CBA's original concern regarding the lack of new material to substantiate an eight hour course and increases the protection of the public. Therefore, it believes that

**Consideration of an Adverse Comment Received on the 15-Day Notice of Modified Text Regarding Title 16, California Code of Regulations (CCR) Sections 12, 12.5, 37, 80, 80.1, 80.2, 81, 87, 87.1, 87.7, 87.8, 87.9, 88, 88.1, 88.2, and 89 – Continuing Education**

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maintaining the eight hour fraud requirement is essential to retaining the integrity of the profession and protecting the public.

If the CBA decides to make any changes, staff will prepare and proceed with a second 15-Day Notice of Modified Text.

If no changes are to be made regarding the public comment:

No motion is needed; however, staff would request that the CBA clearly state its reason for rejecting the public comment so that this can be included in the required Final Statement of Reasons.

If substantive changes are to be made regarding the public comment:

*Motion:* Direct staff to take all steps necessary to complete the rulemaking process, including sending out the modified text for an additional 15-day comment period. If after the 15-day public comment period, no adverse comments are received, authorize the Executive Officer to make any non-substantive changes to the proposed regulations, and adopt the proposed regulations as described in the modified text notice.

**Fiscal/Economic Impact Considerations**

Licensees will continue to pay for 80 hours of CE every two years regardless of whether the fraud CE requirement is four or eight hours.

**Recommendation**

Staff has no recommendation on this item.

**Attachment**

CalCPA Letter dated October 3, 2012



1201 "K" Street, Ste. 1000  
Sacramento, CA 95814  
(916) 441-5351  
[www.calcpa.org](http://www.calcpa.org)

October 3, 2012

Matthew Stanley  
California State Board of Accountancy  
2000 Evergreen Street, Suite 250  
Sacramento, CA 95815-3832

Dear Mr. Stanley:

On behalf of the 40,000 members of CalCPA, we offer the following comments and observations about the proposed regulatory changes in the Notice of Modified Text related to continuing education.

During the Board's May discussion on other potential changes to the CE requirements, the Board expressed concern that the 8 hour fraud requirement every two years was excessive since the qualifying courses frequently repeated the same material. In our September 10th letter, CalCPA recommended that the definition of qualifying courses be expanded from, "detection and reporting of fraud in financial statements" to, "prevention, detection and/or reporting of fraud affecting financial statements." CalCPA's recommendation to expand the qualifying content was accepted and is now shown in the modified text.

The expressed rationale for proposing a reduction in hours was the repetitive nature of the course material. No evidence was presented that the threat of financial statement fraud or the public's expectations regarding the detection of such fraud have decreased since the 8 hour requirement was adopted. The expanded definition of qualifying courses addresses that concern regarding a lack of new material and increases the protection of the public.

As our prior letter pointed out, fraud prevention is not just earlier detection of fraud, but is a distinct body of knowledge regarding controls and other deterrents that preclude or discourage the fraud before it is committed. Therefore, we firmly believe that there is clearly enough fresh material to justify retaining the current 8 hour fraud continuing education requirement. If that does not prove to be the case, reduction in the number of required fraud continuing education hours can be revisited after experience with the expanded content requirements has been obtained.

We have discussed the reduction in hours with a variety of member groups and not one has supported lessening the requirement to 4 hours. All believe that the 8 hour fraud requirement is essential to retaining the integrity of the CPA profession and protecting the public.

Our representatives at the September meeting misunderstood the motion that was made regarding the number of hours to be required. They thought that the Board was agreeing with the CalCPA recommendation to adopt the 8 hour requirement. After the meeting, they came to understand that the motion was to retain the 4 hour requirement in the proposal rather than retain the 8 hour existing requirement. The motion was proper and our representatives take full responsibility for the misunderstanding that caused them not to present the arguments in this letter during the Board's consideration of this matter. Our apologies for that, but we feel very strongly that since the definition of qualifying courses was expanded, there is no need reason for reducing the required hours at this time.

We appreciate the Board's consideration of our concerns and we would be interested in working with the Board on other possible alternatives related to the overall prescribed CPE hours.

Best regards,

A handwritten signature in black ink, appearing to read "Bruce C. Allen". The signature is fluid and cursive, with a long horizontal stroke at the end.

Bruce C. Allen, Director  
Government Relations

cc: Members, California Board of Accountancy

**CALIFORNIA BOARD OF ACCOUNTANCY  
REPORT ON LICENSING DIVISION ACTIVITY  
July 2012 – September 2012**

**CBA Item VIII.A.**  
November 15-16, 2012

<b>EXAMINATION</b>	<b>July</b>	<b>August</b>	<b>September</b>
<b>CPA Examination Applications Received</b>			
First-Time Sitter	740	748	602
Repeat Sitter	1,002	1,470	1,773
<b>CPA Examination Applications Processed</b>			
First-Time Sitter	1,240	844	1,179
Repeat Sitter	757	1,412	2,061
<b>Processing Time Frames (Days)</b>			
First-Time Sitter	32.5	34	26
Repeat Sitter	6	10	9
<b>INITIAL LICENSING</b>			
<b>CPA Licensure Applications Received</b>			
CPA	251	317	247
Partnership	7	5	3
Corporation	18	14	13
Fictitious Name Permit (Registration)	19	8	11
<b>Processing Time Frames (Days)</b>			
CPA	19	18	26
Partnership	7	9	13
Corporation	7	9	13
Fictitious Name Permit (Registration)	7	9	13
<b>Applicants Licensed Under</b>			
Pathway 0	0	2	0
Pathway 1A	25	40	29
Pathway 1G	41	55	36
Pathway 2A	67	61	49
Pathway 2G	113	147	101

**CALIFORNIA BOARD OF ACCOUNTANCY  
REPORT ON LICENSING DIVISION ACTIVITY  
July 2012 – September 2012**

<b>RENEWAL AND CONTINUING COMPETENCY</b>	<b>July</b>	<b>August</b>	<b>September</b>
<b>Total Number of Licensees</b>			
CPA	84,784	85,034	85,245
PA	121	120	119
Partnership	1,417	1,414	1,421
Corporation	3,736	3,744	3,755
<b>Licenses Renewed</b>			
CPA	3,162	2,883	3,261
PA	5	0	1
Partnership	49	48	35
Corporation	167	124	109
<b>CE Worksheet Review</b>			
CPA/PA Applications Reviewed	3,676	3,367	2,275
Deficient Applications Identified	567	455	371
Compliance Responses Received <i>(Including Requests for Inactive Status)</i>	263	47	9
Enforcement Referrals	0	0	0
Outstanding Deficiencies <i>(Including Abandonment)</i>	304	408	362
<b>PRACTICE PRIVILEGE</b>			
<b>Notifications Received</b>			
Hardcopy	18	35	18
Electronic	85	89	86
<b>Disqualifying Conditions Received</b>			
Approved	2	2	0
Denied	2	0	0
Pending	0	0	0
<b>Practice Privilege Suspension Orders</b>			
Notice of Intent to Suspend	4	6	4
Administrative Suspension Order	2	3	2

**CALIFORNIA BOARD OF ACCOUNTANCY  
REPORT ON LICENSING DIVISION ACTIVITY  
July 2012 – September 2012**

**DIVISION ACTIVITIES**

- Staff approved one Regulatory Review course bringing the total number of Board-approved courses to 21 with one provider electing not to renew its course. Staff is actively working with nine course providers to amend their course materials to be in compliance with the course content requirements, with an additional three courses pending initial review.
- Kris Rose, who managed the License Renewal and Continuing Competency Unit (RCC), recently took a position with CalFire and her last day with the CBA was October 30, 2012. As a result of Ms. Rose's departure, the Licensing Division is in the process of recruiting for a manager for the RCC Unit.
- The Examination Unit recently hired an Office Technician Permanent Intermittent.
- The Initial Licensing Unit continues to recruit for an Associate Governmental Program Analyst.

**NEW LICENSURE ACTIVITIES**

- Staff will be speaking at California State University, East Bay on November 14, 2012. The focus of the speaking event will be on the new educational requirements for licensure.
- In September, President Oldman issued a letter to the California State University Board of Trustees as a result of recent news articles indicating that the various California State University campuses will be scaling back on admission for California students for the upcoming spring 2013 term (**Attachment 1**). The letter sought clarification regarding this policy to determine if this represented a onetime occurrence or if the policy is likely to exist for the foreseeable future. On October 25, 2012, Ephraim Smith, Executive Vice Chancellor and Chief Academic Officer, from the California State University Office of the Chancellor provided a response letter (**Attachment 2**).

**COMMITTEE NEWS**

**CPA Qualifications Committee (QC)**

The QC met on October 24, 2012 in Oakland, CA. The committee continued its discussion on a peer training plan that will be included in the QC Manual. At this point, the QC anticipates that it will complete its work on the peer training plan in early 2013.

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September 18, 2012

Attachment 1

Robert Linscheid, President  
Board of Trustees  
California State University  
Office of the Chancellor  
401 Golden Shore  
Long Beach, CA 90802-4210

Dear President Linscheid:

The California Board of Accountancy (CBA) is charged with regulating the practice of public accountancy, which includes both licensing and enforcement functions designed to ensure that only qualified licensees practice public accountancy in accordance with established professional standards. Presently, the CBA regulates over 85,000 licensees, including both certified public accountants (CPA) and accounting firms, and on average issues over 3,000 new CPA licenses annually.

In order to become a licensed CPA in California, the California Legislature has established minimum educational requirements for both qualification to take the Uniform CPA Examination and entry into the practice. Many of the CBA's applicants obtain their education at the 23 universities that make up the California State University (CSU) system, which offer California residents an opportunity to obtain an affordable high-quality education.

After reviewing the minutes of a recent CSU Board of Trustees meeting, as well as locating some recent news articles, it has become apparent that in an attempt to limit enrollment, the various CSU campuses will scale back on admission for California students for the upcoming spring 2013 term. Specifically, only non-California resident students will be admitted into the various graduate programs, and only 10 of the 23 campuses will accept some undergraduate applicants transferring from various community colleges.

The CBA recognizes the tremendous budget cuts the CSU system has incurred during these hard economic times, and, as a result, the Board of Trustees and campus presidents must make difficult decisions in what program areas to cut. That said, the CBA is concerned with the potential impact these present measures will have on students desiring to obtain a California CPA license.

Mr. Linscheid  
September 18, 2012  
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As president of the CBA, I am seeking clarification regarding the recent action by the Board of Trustees to limit enrollment. Specifically, is the present enrollment practice for the upcoming spring 2013 term a onetime occurrence, or is this a policy that is likely to exist for the foreseeable future?

Again, the CBA understands the unenviable position the CSU system faces related to the ongoing budget cuts to the State's educational system, but the CBA is concerned that the present measures to limit enrollment for California residents could adversely impact future students' ability to earn a livelihood as CPAs.

Should you wish to discuss this matter further, please contact Patti Bowers, CBA Executive Officer, by telephone at (916) 561-1711 or by email at [patti.bowers@cba.ca.gov](mailto:patti.bowers@cba.ca.gov).

Sincerely,

A handwritten signature in black ink, appearing to read "M. Oldman", written in a cursive style.

Marshal A. Oldman, Esq., President  
California Board of Accountancy

c: Members, California Board of Accountancy  
Patti Bowers, Executive Officer

*Academic Affairs*  
401 Golden Shore, 6th Floor  
Long Beach, CA 90802-4210

[www.calstate.edu](http://www.calstate.edu)

*Ephraim P. Smith*  
Executive Vice Chancellor  
and Chief Academic Officer  
562-951-4710  
Email [esmith@calstate.edu](mailto:esmith@calstate.edu)

October 25, 2012

Marshal A. Oldman  
President  
California Board of Accountancy  
2000 Evergreen Street, Suite 250  
Sacramento, CA 95815-3832

Dear President Oldman:

We appreciate the concerns you raise in your letter of September 18, 2012 regarding the impact of admission closure on the ordinary graduation rate of our future accountants.

As you correctly point out, the California State University has been forced to close admission to new students across the system for the spring 2012 term given the more than \$1 billion cuts in our state allocation. While we are hopeful that the state will eventually restore the CSU budget, we cannot say definitively that similar closures will be unnecessary in the future.

While these budget cuts are certainly the primary reason for the closure, preserving the graduation rate of our current students is of equal concern. Ironically, this closure helps us to preserve authentic access to all of our programs, courses, and services in order for our continuing students to take full loads and complete their degree programs at a reasonable rate. Given the depth of these budget cuts, receiving more new students than we can support would frustrate the ability of continuing students to finish on time.

Because we have taken these measures, we do not anticipate any significant decline in the number of students preparing for the accountancy licensure. Moreover, closing admission in the spring typically raises the number of overall applicants we receive in the fall. Fall enrollments are subject to the budget of a new fiscal year.

Our CSU Presidents, Provosts, and Deans are aware of enrollment trends in each of our programs at each of our campuses. They have been invited to share the impact these closures may have on enrollment in any program should something of an unexpected nature surface.

**CSU Campuses**

Bakersfield  
Channel Islands  
Chico  
Dominguez Hills  
East Bay

Fresno  
Fullerton  
Humboldt  
Long Beach  
Los Angeles  
Maritime Academy

Monterey Bay  
Northridge  
Pomona  
Sacramento  
San Bernardino  
San Diego

San Francisco  
San José  
San Luis Obispo  
San Marcos  
Sonoma  
Stanislaus

Marshal A. Oldman  
October 25, 2012  
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Additionally, accounting students (across the CSU) who want to sit for the CPA have the opportunity to complete a 4+1 type program with a standard undergraduate degree (most are at or near 120 units). Then, those students may complete a one year post-baccalaureate program to obtain the other 30 units needed to sit for the CPA. Moving programs to 120 units will not adversely affect accounting students who need the additional 30 units.

Thank you again for your letter. If you, Patti Bowers, or other members of the California Board of Accountancy have additional questions, please contact me at (562) 951- 4710 or at [esmith@calstate.edu](mailto:esmith@calstate.edu).

Sincerely,



Ephraim P. Smith  
Executive Vice Chancellor and Chief Academic Officer

ES/th

c: Chancellor Charles B. Reed  
Robert Linscheid, Chair, California State University, Board of Trustees  
Henry Mendoza, Member, Board of Trustees  
Patti Bowers, Executive Officer, California Board of Accountancy

## California Board of Accountancy Enforcement Activity Report

As of October 15, 2012

### Complaints

The Enforcement Division has received 475 complaints since July 1, 2012. Of the complaints received, 316 were assigned for investigation, with an average of six days from the time the complaint is received to when it is either closed or assigned to investigation.

<b>1.1 – Complaints/Records of Convictions</b>	<b>FY 2010/11</b>	<b>FY 2011/12</b>	<b>YTD 10/15/12</b>
Received	854	1,911	475
Closed without Assignment for Investigation	232	294	159
Assigned for Investigation	601	1,626	316
Average Days to Close or Assign for Investigation	5	4	6
Pending	22	12	2
Average Age of Pending Complaints (days) <sup>1</sup>	5	16	8

<sup>1</sup> Represents data as of the end of the fiscal year, and as of October 15, 2012.

### Comments

- The 475 complaints received results in a projected average of approximately 1,662, which is a slight decrease from the previous fiscal year.
- The Average Days to Close or Assign for Investigation remains consistent with the two previous reporting periods.
- The Average Age of Pending Complaints remains below the last fiscal year.

## Investigations

The CBA Enforcement Division has assigned 316 cases for investigation in the current fiscal year. Enforcement staff has closed 356 investigations, and there are currently 399 cases assigned for investigation.

<b>2.1 – Investigations</b>	FY 2010/11	FY 2011/12	YTD 10/15/12
Assigned	601	1,626	316
Closed	464	1,525	357
Average Days to Close	130	85	245
Investigations Pending <sup>1</sup>	334	439	399
<i>&lt; 18 Months</i>	301	384	374
<i>18-24 Months</i>	21	26	12
<i>&gt; 24 Months</i>	12	29	13
Average Age of Open Cases (days) <sup>1</sup>	238	248	188
Median Age of Open Cases (days) <sup>1</sup>	157	164	102
<sup>1</sup> Represents data as of the end of the fiscal year, and as of October 15, 2012.			

## Comments

- The 316 cases assigned for investigation averages to 1,106 for the fiscal year, which is a slight decrease from the previous fiscal year.
- The Average Days to Close an investigation remains higher than the previous fiscal years; however, the number has decreased from 294 as reported at the last CBA meeting.
- Of the 13 cases that have been open for more than 24 months:
  - Four were scheduled for an Investigative Hearing (IH) in October
    - Three were recommended for discipline
    - One was recommended for closure
    - Once the hearing transcript is received from the court reporter, the three cases recommended for discipline will be forwarded to the AG's Office
  - Two are scheduled for an IH in November
  - Three will be scheduled for an IH in December
  - Two will be referred to the Attorney General in late October
  - Two others are currently under investigation
- The Enforcement Division is currently pursuing criminal complaints against two unlicensed individuals; one was referred to the Santa Clara District Attorney, and the other to the Anaheim City Attorney.
- Staff is preparing a Penal Code 23 intervention, which will stop a licensee from practicing while their criminal case is pending.
- The number of Investigations Pending decreased from 506 in the previous reporting period to 399.
- The Median and Average Age of Open Cases continue to remain lower than the previous two fiscal years.

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

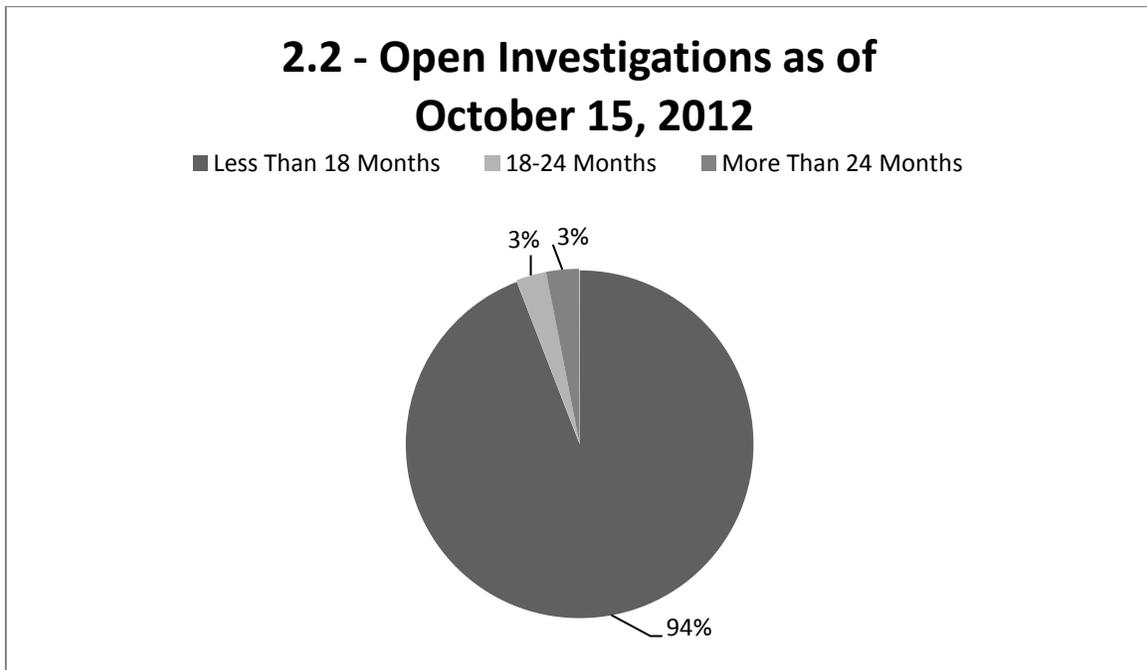
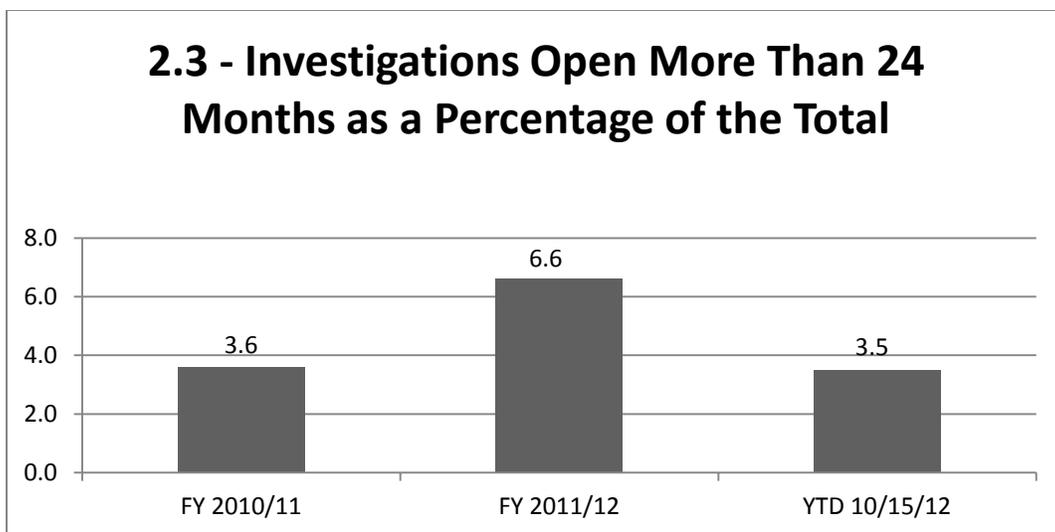


Chart 2.3 illustrates the case aging trend, comparing the current percentage of cases older than 24 months to the end of the previous two fiscal years. The chart shows the percentage of cases open for more than 24 months has decreased from 6.6 percent in the prior fiscal year to 3.5 percent.



## Discipline

As of October 15, 2012 the Enforcement Division has referred 17 complaints to the Attorney General's (AG) Office. There have been nine accusations filed and 16 disciplinary actions adopted. Of the 16 actions adopted, 12 were stipulated settlements, two were default decisions, and two were proposed decisions. There are currently 55 cases pending at the AG, with three pending for more than 24 months.

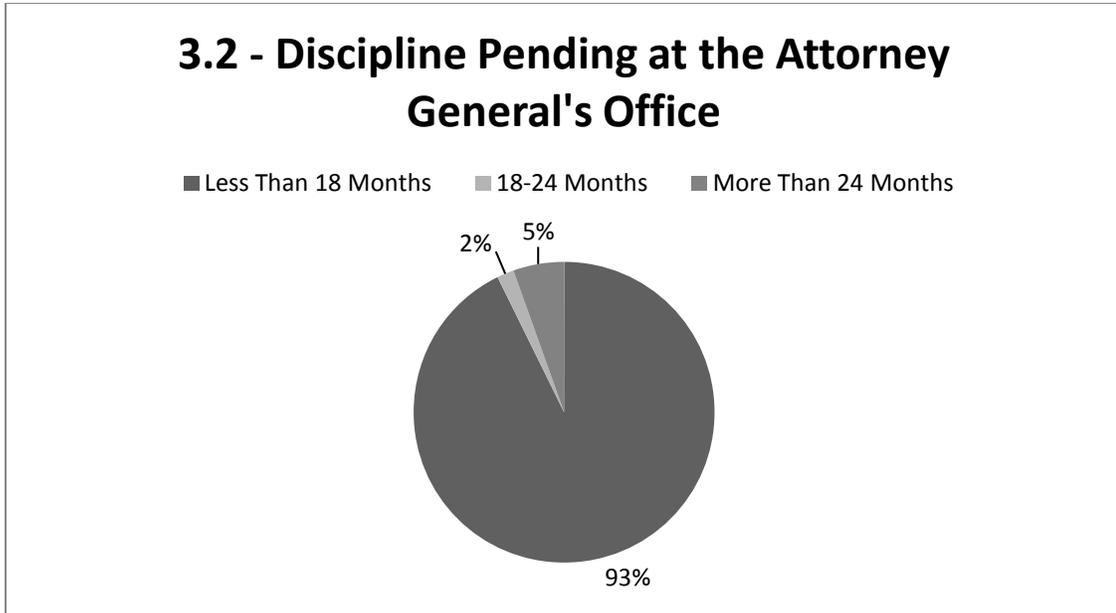
<b>3.1 - AG Referrals</b>	FY 2010/11	FY 2011/12	YTD 10/15/12
Referrals	24	50	17
Accusations Filed	20	37	9
Statements of Issues Filed	0	2	0
Petitions for Revocation of Probation	2	3	0
Closed	22	26	16
<i>Via Stipulated Settlement</i>	12	19	12
<i>Via Proposed Decision</i>	6	3	2
<i>Via Default Decision</i>	4	4	2
Discipline Pending <sup>1</sup>	37	54	55
<i>&lt; 18 Months</i>	32	44	51
<i>18-24 Months</i>	2	3	1
<i>&gt; 24 Months</i>	3	7	3

<sup>1</sup> Represents data as of the end of the fiscal year, and as of October 15, 2012.

## Comments

- There are three cases that have been at the AG's Office for more than 24 months, which is a reduction from five in the previous report. Of the three that have been pending for more than 24 months:
  - One of the cases had a write filed with the California Superior Court, and a hearing is pending.
  - One is scheduled for hearing at the Office of Administrative Hearings (OAH) in December 2012.
  - A final case was heard by an Administrative Law Judge (ALJ) in June, and will be presented to the CBA in November.
- To date, 16 disciplinary cases have been adopted by the CBA.

Chart 3.2 illustrates the number of cases pending at the AG's Office by percentage. Approximately 93 percent of all CBA cases at the AG's Office have been open less than 18 months, two 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, 26 citations, with a total fine amount of \$21,400 have been issued by the Enforcement Division.

<b>4.1 - Citations</b>	FY 2010/11	FY 2011/12	YTD 10/15/12
Total Citations Issued	30	908	26
Total Fines Assessed	\$26,850	\$255,350	\$21,400
Average number of days from receipt of a complaint to issuance of a citation	268	22	306
Top 3 Violations			
1:	Response to CBA Inquiry (Reg 52)	Response to CBA Inquiry (Reg 52)	Response to CBA Inquiry (Reg 52)
2:	CE Basic Requirements (Reg 87)	CE Basic Requirements (Reg 87)	CE Basic Requirements (Reg 87)
3:	Practice Without Permit (B&P 5050)	Name of Firm (B&P 5060)	Name of Firm (B&P 5060)

### Comments

- Of the 908 citations issued in fiscal year 2011/12, 872 were issued for failure to respond to a peer review reporting requirement.
- Excluding peer review, in fiscal year 2011/12 there were 36 citations issued, for a total fine amount of \$37,500.
- The average number of days, (306) has decreased from 320 as reported in the previous report.

## 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 October 15, 2012, there were 62 licensees on probation. Seven additional licensees were placed on probation as a result of CBA action at the September meeting. Seven probation meetings were held in conjunction with the Enforcement Advisory Committee meeting in Los Angeles on October 18, 2012.

## Peer Review

As of October 15, 2012, 48,444 Peer Review Reporting Forms have been submitted to the CBA. The reporting forms are categorized as follows:

<b>5.1 - Peer Review</b>						
License Ending In	Reporting Deadline	Peer Review Required	Peer Review Not Required	Not Applicable (Non-firms)	Total	Number of Failed Peer Review Reports Received
01-33	7/1/11	2,405	4,243	15,540	22,188	101
34-66	7/1/12	1,535	3,530	11,604	16,669	73
67-00	7/1/13	561	1,859	7,167	9,587	35
		4,501	9,632	34,311	48,444	209

### Correspondence to Licensees

In September, Enforcement staff sent approximately 4,200 deficiency letters to licensees who were required to submit a Peer Review Reporting Form by July 1, 2012. Licensees have until October 31, 2012 to respond to the letter, otherwise citations will be issued.

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

In fiscal year 2011/12, Enforcement staff issued 872 citations to licensees who failed to respond to the CBA's requests for peer review information. Each citation included a \$250 administrative fine and an order of correction requiring the licensee to submit the Peer Review Reporting Form within thirty days.

The following data is as of October 15, 2012.

<b>5.2 - Peer Review Citations</b>	
Closed – Paid	443
Closed – Payment Added to Renewal Fee	116
Paid – Waiting for Peer Review Reporting Form	28
Appeal Affirmed – Waiting for Payment	70
Appeal Affirmed – Waiting for Peer Review Reporting Form	13
Appeal – Withdrawn	162
Pending Administrative Hearing	35

### Verification of Peer Review Reporting Forms

Enforcement staff continue to review the Peer Review Reporting Forms of licensees that reported they are operating as a firm but not subject to peer review. To date, staff has reviewed 482 reporting forms.

Based on information obtained from licensees' renewal applications, 115 licensees have been referred to Enforcement. These licensees are being asked to provide the CBA with a description of their highest level attestation engagement, and copies of their timesheets and invoices for a specific period of time.

### Failed Peer Reviews

As requested at the last CBA meeting, staff posted links to the CalCPA website which contains educational information about the peer review. CBA staff also posted the top nine most common reasons when a failed peer review is issued by the American Institute of Certified Public Accountants administrative entities, including the CalCPA and NPRC.

## Reportable Events

The following chart is a list of complaints received that resulted from reportable events as defined by Business and Professions Code Section 5063.

<b>6.1 – Reportable Events</b>	FY 2010/11	FY 2011/12	YTD 10/15/12
Felony or Criminal Conviction	3	3	0
Cancellation, Revocation, Or Suspension By Another State Or Agency	8	4	0
Restatements			
• Governmental	112	106	5
• Non-Profit	16	7	1
Civil Action Settlement/Arbitration Award	16	11	2
SEC Investigation / Wells Submission	2	2	1
PCAOB Investigations – 5063(B)(5)	6	2	0
Civil Action or Judgment – 5063(C)(1-5)	0	3	0
Reporting By Insurers/Courts – 5063.2	26	18	0
<b>Total</b>	192	164	9

### Comments

- Not all reportable events received result in an investigation being opened.
- Licensees will often self report a criminal conviction before sentencing, or an SEC investigation before final action. However, disciplinary action cannot be taken until final disposition of the other civil, criminal, or administrative action. Therefore, these complaints are tracked until final disposition.
- Of the 164 reportable events received by the CBA in fiscal year 2011/12, 106, or 65 percent, were restatements.
- Of the 51 reportable events received in fiscal year 2011/12 that were not from a restatement, 33 percent were opened for investigation.
- The average time to complete an SEC investigation in fiscal year 2011/12 was 12.4 months, with six SEC investigations ongoing.
- The average time to complete a PCAOB investigation in fiscal year 2011/12 was 11 months, with three investigations ongoing.

## **Division Highlights and Future Considerations**

- Since the last report, the Enforcement Division has reduced investigations pending by over 100.
- Enforcement Division maintains aggressive pursuit of unlicensed activity, with complaints referred to a District and City Attorney.
- Approximately 94 percent of all investigations have been open less than 18 months.
- Educational resources regarding peer review were posted on the CBA website in order to educate licensees about common pitfalls.
- In November, the Enforcement Division will be reorganized to further streamline investigative and support processes.



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**CPC Item II.**  
November 15, 2012

**CBA Item X.A.2.**  
November 15-16, 2012

**Project Plan for Implementation of the Practice Privilege Provisions for  
Senate Bill 1405 Set to Take Effect July 1, 2013**

**Presented by:** Dominic Franzella, Licensing Chief

**Date:** October 30, 2012

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**Purpose of the Item**

The purpose of this item is to provide the California Board of Accountancy (CBA) with information on activities being undertaken by staff related to implementing the new practice privilege provisions recently included in Senate Bill (SB) 1405. Additionally, the item will provide members with anticipated dates on when items will be brought to the CBA for action and when the CBA is mandated to provide certain reports to various stakeholders.

**Action(s) Needed**

No specific action is required on this agenda item.

**Background**

On September 20, 2012 Governor Brown signed into law SB 1405, which included two changes to the California Accountancy Act. First, the bill established the ability for active duty service members to apply for and receive a military inactive status. Second, the bill significantly modified the CBA's practice privilege provisions, with one of the more important changes being that in most cases out-of-state CPAs who are licensed to practice public accountancy in another jurisdiction can do so in California without having to notify the CBA and without paying a fee.

**Comments**

With the expectation that the Governor would eventually sign SB 1405 into law and recognizing early on the far-reaching effect the bill would have on the CBA's practice privilege provisions, staff began meeting in late July to discuss implementation. As a result of these early meetings, an internal taskforce was established, comprised of senior management and key program staff, with the express purpose of developing and carrying out the implementation plan associated with new practice privilege provisions.

The implementation plan (**Attachment 1**) provides an outline of the key tasks associated with implementing the practice privilege provisions, in addition to various tasks that occur after the provisions take effect July 1, 2013. For the implementation

## **Project Plan for Implementation of the Practice Privilege Provisions for Senate Bill 1405 Set to Take Effect July 1, 2013**

Page 2 of 2

plan, staff has identified six key areas – (1) Rulemaking Activities, (2) Outreach, (3) Website, (4) Reports to Various Stakeholders, (5) Practice Privilege Stakeholder Taskforce, and (6) CBA Determinations. Staff has highlighted in bold font style the various tasks for each area where the CBA will be called upon to consider an issue or act on an issue or both.

Although this high-level implementation plan seeks to address all know implementation-related issues and to identify when tasks should reasonably be accomplished, staff realizes that the implementation plan will be an evolving document and, as such, tasks and dates will be modified as necessary.

### **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 project plan for implementation of SB 1405.

### **Attachments**

1. Senate Bill 1405 – Practice Privilege Provisions Implementation Plan
2. Senate Bill 1405 – Practice Privilege Provisions Set to Take Effect July 1, 2013

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**Attachment 1**

**SENATE BILL 1405 – PRACTICE PRIVILEGE PROVISIONS  
 IMPLEMENTATION PLAN**

**DEVELOPED BY:** Senate Bill 1405 Taskforce

TASK	TASK NAME	START DATE	FINISH DATE	RESPONSIBLE PARTY	STATUS/COMMENTS
<b>1.</b>	<b>RULEMAKING ACTIVITIES</b>				
1.1.	<i>Emergency Rulemaking</i>				
1.1.1.	Draft regulatory language	September 2012	October 2012	Staff	
1.1.2.	<b>CBA approval of draft regulatory language</b>	<b>November 2012 CBA Meeting</b>	<b>January 2013 CBA Meeting</b>	<b>CBA</b>	
1.1.3.	Draft required emergency rulemaking materials	November 2012	February 2013	Staff	Includes the preparation of the Finding of Emergency and Fiscal/Economic Impact Statement
1.1.4.	<b>CBA final approval of language</b>	<b>March 2013 CBA Meeting</b>	<b>March 2013 CBA Meeting</b>	<b>CBA</b>	Only necessary if the CBA makes substantial changes to the draft regulatory language in January and direct staff to bring back the language prior to final approval
1.1.5.	DCA and State and Consumer Services Agency (SCSA) review emergency rulemaking materials	Mid April 2013	Mid June 2013	DCA/SCSA	
1.1.6.	Send emergency regulation materials to the CBA's interested parties list and post to the CBA's website.	Mid June 2013	Mid June 2013	Staff	Staff will perform this at a minimum of five days prior to submitting to the Office of Administrative Law (OAL).

**SENATE BILL 1405 – PRACTICE PRIVILEGE PROVISIONS  
IMPLEMENTATION PLAN**

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TASK #	TASK NAME	START DATE	FINISH DATE	RESPONSIBLE PARTY	STATUS/COMMENTS
1.1.7.	OAL reviews and renders determination on emergency regulations	Mid/Late June 2013	Mid/Late June 2013	Staff	OAL has 10 calendar days to review the emergency rulemaking materials. Staff will request an operative date of July 1, 2013 for the regulations.
1.1.8.	Practice Privilege regulations take effect for 180 days	July 1, 2013	December 27, 2013		
1.1.9.	<b>CBA re-adoption – 1<sup>st</sup></b>	<b>November 2013 CBA Meeting</b>	<b>November 2013 CBA Meeting</b>	<b>CBA</b>	If the Certification of Compliance (detailed in 1.2) rulemaking process is not yet complete prior to the conclusion of the 180 days, the CBA can request two additional 90-day extensions.
1.1.10.	1 <sup>st</sup> re-adoption effective	December 27, 2013	March 27, 2014		
1.1.11.	<b>CBA re-adoption – 2<sup>nd</sup></b>	<b>January 2014 CBA Meeting</b>	<b>January 2014 CBA Meeting</b>	<b>CBA</b>	
1.1.12.	2 <sup>nd</sup> re-adoption effective	March 27, 2014	June 25, 2014		
1.2.	<i>Certification of Compliance and Regular Rulemaking Materials</i>				
1.2.1.	Prepare certification of compliance	November 2012	December 2012	Staff	The certification of compliance is, in essence, a regular rulemaking.
1.2.2.	<b>CBA approval of draft regulatory language</b>	<b>March 2013 CBA Meeting</b>	<b>March 2013 CBA Meeting</b>	<b>CBA</b>	
1.2.3.	Submit certification of compliance and regular rulemaking materials to OAL and DCA	April 2013	April 2013	Staff	
1.2.4.	Notify interested parties of the rulemaking	April 2013	April 2013	Staff	
1.2.5.	Public comment period	April 2013	May 2013	Public	Individuals can provide written comments at any time during the 45-day public comment period.
1.2.6.	<b>CBA conducts public hearing and approves final regulatory language</b>	<b>July 2013 CBA Meeting</b>	<b>July 2013 CBA Meeting</b>	<b>CBA</b>	

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TASK #	TASK NAME	START DATE	FINISH DATE	RESPONSIBLE PARTY	STATUS/COMMENTS
1.2.7.	Prepare and post 15-day re-notice	August 2013	August 2013	Staff	Only necessary if the CBA makes changes to the language as a result of public comments received in writing or at the hearing or if technical changes are identified by the CBA or staff
1.2.8.	Complete Certificate of Compliance rulemaking file	Late August 2013	Late September 2013	Staff	
1.2.9.	DCA, SCSA, and DOF review Certificate of Compliance rulemaking file.	Late September 2013	March 2014	DCA/SCSA/DOF	
1.2.10.	OAL reviews and renders determination on final regulations	Mid April 2014	Late June 2014	OAL	
1.2.11.	Practice privilege regulations become final	Late June 2014	On or before July 1, 2014		
<b>2.</b>	<b>OUTREACH</b>				
2.1.	<i>Press Releases</i>				
2.1.1.	Issue press release upon signing of SB 1405	August 2012	September 20, 2012	Staff	Complete
2.1.2.	Issue press release prior to new provisions taking effect July 1, 2013	June 2013	June 2013	Staff	
2.2.	<i>Update Articles</i>				
2.2.1.	Develop article for Fall 2012 edition	August 2012	September 2012	Staff	Complete
2.2.2.	Develop article for Spring 2013 edition	October 2012	January 2013	Staff	Articles will focus on pertinent information related to getting the word out on California's practice privilege provision
2.2.3.	Develop article for Fall 2013 edition	August 2013	September 2013	Staff	

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TASK #	TASK NAME	START DATE	FINISH DATE	RESPONSIBLE PARTY	STATUS/COMMENTS
2.3.	<i>Miscellaneous</i>				
2.3.1.	Mail letter to present and prior practice privilege holders regarding new practice privilege provisions	January 2013	January 2013	Staff	
2.3.2.	Explore options for communication opportunities via social media	January 2013	Ongoing	Staff	
<b>3.</b>	<b>WEBSITE</b>				
3.1.	<i>License Lookup – Consumers</i>				
3.1.1.	Redesign/develop web pages for License Lookup	October 2012	April 2013	Staff	Web License Lookup feature will be developed, at a minimum, in conformity with Business and Professions (B&P) Code Section 5096.20
3.1.2.	<b>CBA review of website</b>	<b>May 2013 CBA Meeting</b>	<b>May 2013 CBA Meeting</b>	<b>CBA</b>	
3.1.3.	Redesigned License Lookup feature goes live	July 1, 2013	July 1, 2013	Staff	
3.2.	<i>Out-of-State CPA/Accounting Firm Information</i>				
3.2.1.	Create practice privilege informational page to guide out-of-state CPAs and accounting firms regarding California's mobility provisions	October 2012	April 2013	Staff	
3.2.2.	<b>CBA review of website</b>	<b>May 2013 CBA Meeting</b>	<b>May 2013 CBA Meeting</b>	<b>CBA</b>	
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TASK #	TASK NAME	START DATE	FINISH DATE	RESPONSIBLE PARTY	STATUS/COMMENTS
<b>4.</b>	<b>REPORTS TO VARIOUS STAKEHOLDERS</b>				
4.1.	Prepare draft preliminary report due no later than July 1, 2015	January 2015	February 2015	Staff	Pursuant to B&P Code Section 5096(d)(1)  Report will go to the Legislature, Director of DCA, and made available to the public upon request (which will be accomplished via posting to the CBA website)
<b>4.2.</b>	<b>CBA review and approve draft preliminary report due no later than July 1, 2015</b>	<b>March 2015 CBA Meeting</b>	<b>May 2015 CBA Meeting</b>	<b>CBA</b>	
4.3.	Submission of preliminary report due no later than July 1, 2015	June 2015	June 2015	Staff	Report will also be posted to the CBA website
4.4.	Draft report due on or before January 1, 2018	July 2017	August 2017	Staff	Pursuant to B&P Code Section 5096(f)  Report will go to the relevant policy committees of the Legislature, Director of DCA, and made available to the public upon request (which will be accomplished via posting to the CBA website)
<b>4.5.</b>	<b>CBA review and approve draft report due on or before January 1, 2018</b>	<b>September 2017 CBA Meeting</b>	<b>November 2017 CBA Meeting</b>	<b>CBA</b>	
4.6.	Submission of report due on or before January 1, 2018	December 2017	December 2017	Staff	Report will also be posted to the CBA website
<b>5.</b>	<b>PRACTICE PRIVILEGE STAKEHOLDER TASKFORCE (Taskforce)</b>				
5.1.	<b>CBA considers composition of the Taskforce</b>	<b>September 2013 CBA Meeting</b>	<b>November 2013 CBA Meeting</b>	<b>CBA</b>	Pursuant to B&P Code Section 5096.21 – must include members of the CBA, CBA enforcement staff, representatives of the accounting profession, and consumer representatives  No specific number of stakeholders provided for in the bill

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TASK #	TASK NAME	START DATE	FINISH DATE	RESPONSIBLE PARTY	STATUS/COMMENTS
5.2.	<b>CBA appoints stakeholders to the Taskforce</b>	<b>March 2014 CBA Meeting</b>	<b>March 2014 CBA Meeting</b>	<b>CBA</b>	First meet must occur on or before July 1, 2014
5.3.	Taskforce meeting – 1 <sup>st</sup>	May 2014	May 2014	Taskforce	Will be held in conjunction with the May 2014 CBA meeting
5.4.	Taskforce meetings – ongoing	TBD	TBD	Taskforce	
<b>6.</b>	<b>CBA Determinations</b>				
6.1.	<b>State-by-state determination</b>	<b>January 2016 CBA Meeting</b>	<b>January 2016 CBA Meeting</b>	<b>CBA</b>	See subdivisions (a) and (b) of B&P Code Section 5096
6.2.	<b>State-by-state determination</b>	<b>TBD</b>	<b>TBD</b>	<b>CBA</b>	CBA may, as it deems necessary, review its determinations

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<b>6.</b>	<b>CBA Determinations</b>				
6.1.	<b>State-by-state determination</b>	<b>January 2016 CBA Meeting</b>	<b>January 2016 CBA Meeting</b>	<b>CBA</b>	See subdivisions (a) and (b) of B&P Code Section 5096
6.2.	<b>State-by-state determination</b>	<b>TBD</b>	<b>TBD</b>	<b>CBA</b>	CBA may, as it deems necessary, review its determinations

**SENATE BILL 1405 – PRACTICE PRIVILEGE PROVISIONS SET TO TAKE  
EFFECT JULY 1, 2013**

**BUSINESS AND PROFESSIONS CODE**

**Section 5070**

Permits to engage in the practice of public accountancy in this state shall be issued by the board only to holders of the certificate of certified public accountant issued under this chapter and to those partnerships, corporations, and other persons who, upon application approved by the board, are registered with the board under this chapter. Notwithstanding any other provision of law, the board may register an entity organized and authorized to practice public accountancy under the laws of another state for the purpose of allowing that entity to satisfy the registration requirement set forth in Section 5096.12, provided that (1) the certified public accountants providing services in California qualify for the practice privilege, and (2) the entity satisfies all other requirements to register in this state, other than its form of legal organization.

All applicants for registration shall furnish satisfactory evidence that the applicant is entitled to registration and shall pay the fee as provided in Article 8 (commencing with Section 5130). Every partnership, corporation, and other person to whom a permit is issued after December 31, 1962, shall, in addition to any other fee which may be payable, pay the initial permit fee provided in Article 8 (commencing with Section 5130). Each partnership, corporation, and other person issued a permit by the board to practice as a certified public accountant or as a public accountant shall be furnished with a suitable certificate evidencing that registration.

**Section 5072**

(a) No persons shall engage in the practice of accountancy as a partnership unless the partnership is registered by the board.

(b) A partnership, other than a limited partnership, may be registered by the board to engage in the practice of public accountancy provided it meets the following requirements:

(1) At least one general partner shall hold a valid permit to practice as a certified public accountant, public accountant, or accountancy corporation, or shall be an applicant for a certificate as a certified public accountant under Sections 5087 and 5088, or the partnership shall be registered pursuant to subdivision (c) of Section 5096.12.

(2) Each partner engaged within this state in the practice of public accountancy as defined by Section 5051 shall hold a valid permit to practice in this state or shall have applied for a certificate as a certified public accountant under Sections 5087 and 5088, except for a partner with practice privileges pursuant to Section 5096.

(3) Each partner not engaged in the practice of public accountancy within this state shall be a certified public accountant in good standing of some state, except as permitted by Section 5079.

## Senate Bill 1405

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(4) Each resident manager in charge of an office of the firm in this state shall be a licensee in good standing of this state, or shall have applied for a certificate as a certified public accountant under Sections 5087 and 5088.

(c) This section shall become operative on July 1, 2013.

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

### Section 5096

(a) An individual whose principal place of business is not in this state and who has a valid and current license, certificate, or permit to practice public accountancy from another state may, subject to the conditions and limitations in this article, engage in the practice of public accountancy in this state under a practice privilege without obtaining a certificate or license under this chapter if the individual satisfies one of the following:

(1) The individual has 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.

(2) The individual has a license, certificate, or permit from a state which has been determined by the board to have education, examination, and experience qualifications for licensure substantially equivalent to this state's qualifications under Section 5093.

(3) The individual possesses education, examination, and experience qualifications for licensure which have been determined by the board to be substantially equivalent to this state's qualifications under Section 5093.

(b) The board may designate states as substantially equivalent under paragraph (2) of subdivision (a) and may accept individual qualification evaluations or appraisals conducted by designated entities, as satisfying the requirements of paragraph (3) of subdivision (a).

(c) An individual who qualifies for the practice privilege under this section may engage in the practice of public accountancy in this state, and no notice, fee, or other requirement shall be imposed on that individual by the board.

(d) An individual who qualifies for the practice privilege under this section may perform the following services only through a firm of certified public accountants that has obtained a registration from the board pursuant to Section 5096.12:

(1) An audit or review of a financial statement for an entity headquartered in California.

(2) A compilation of a financial statement when that person expects, or reasonably might expect, that a third party will use the financial statement and the compilation report does not disclose a lack of independence for an entity headquartered in California.

(3) An examination of prospective financial information for an entity headquartered in California.

(e) An individual who holds a practice privilege under this article:

(1) Is subject to the personal and subject matter jurisdiction and disciplinary authority of the board and the courts of this state.

(2) Shall comply with the provisions of this chapter, board regulations, and other laws, regulations, and professional standards applicable to the practice of public

accountancy by the licensees of this state and to any other laws and regulations applicable to individuals practicing under practice privileges in this state except the individual is deemed, solely for the purpose of this article, to have met the continuing education requirements and ethics examination requirements of this state when the individual has met the examination and continuing education requirements of the state in which the individual holds the valid license, certificate, or permit on which the substantial equivalency is based.

(3) Shall not provide public accountancy services in this state from any office located in this state, except as an employee of a firm registered in this state. This paragraph does not apply to public accountancy services provided to a client at the client's place of business or residence.

(4) Is deemed to have appointed the regulatory agency of the state that issued the individual's certificate, license, or permit upon which substantial equivalency is based as the individual's agent on whom notices, subpoenas, or other process may be served in any action or proceeding by the board against the individual.

(5) Shall cooperate with any board investigation or inquiry and shall timely respond to a board investigation, inquiry, request, notice, demand, or subpoena for information or documents and timely provide to the board the identified information and documents.

(6) Shall cease exercising the practice privilege in this state if the regulatory agency in the state in which the individual's certificate, license, or permit was issued takes disciplinary action resulting in the suspension or revocation, including stayed suspension, stayed revocation, or probation of the individual's certificate, license, or permit, or takes other disciplinary action against the individual's certificate, license, or permit that arises from any of the following:

(A) Gross negligence, recklessness, or intentional wrongdoing relating to the practice of public accountancy.

(B) Fraud or misappropriation of funds.

(C) Preparation, publication, or dissemination of false, fraudulent, or materially incomplete or misleading financial statements, reports, or information.

(7) Shall cease exercising the practice privilege in this state if convicted in any jurisdiction of any crime involving dishonesty, including, but not limited to, embezzlement, theft, misappropriation of funds or property, or obtaining money, property, or other valuable consideration by fraudulent means or false pretenses.

(8) Shall cease exercising the practice privilege if the United States Securities and Exchange Commission or the Public Company Accounting Oversight Board bars the individual from practicing before them.

(9) Shall cease exercising the practice privilege if any governmental body or agency suspends the right of the individual to practice before the body or agency.

(f) An individual who is required to cease practice pursuant to paragraphs (6) to (9), inclusive, of subdivision (e) shall notify the board within 15 calendar days, on a form prescribed by the board, and shall not practice public accountancy in this state pursuant to this section until he or she has received from the board written permission to do so.

(g) An individual who fails to cease practice as required by subdivision (e) or that fails to provide the notice required by subdivision (f) shall be subject to the personal and subject matter jurisdiction and disciplinary authority of the board as if the practice privilege were a license and the individual were a licensee. An individual in violation of

subdivision (e) or (f) shall, for a minimum of one year from the date the board learns there has been a violation of subdivision (e) or (f), not practice in this state and shall not have the possibility of reinstatement during that period. If the board determines 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.

(h) The board shall require an individual who provides notice to the board pursuant to subdivision (f) to cease the practice of public accountancy in this state until the board provides the individual with written permission to resume the practice of public accountancy in this state.

(i) (1) An individual to whom, within the last seven years immediately preceding the date on which he or she wishes to practice in this state, any of the following criteria apply, shall notify the board, on a form prescribed by the board, and shall not practice public accountancy in this state pursuant to this section until the board provides the individual with written permission to do so:

(A) He or she has been the subject of any final disciplinary action by the licensing or disciplinary authority of any other jurisdiction with respect to any professional license or has any charges of professional misconduct pending against him or her in any other jurisdiction.

(B) He or she has had his or her license in another jurisdiction reinstated after a suspension or revocation of the license.

(C) He or she has been denied issuance or renewal of a professional license or certificate in any other jurisdiction for any reason other than an inadvertent administrative error.

(D) He or she has been convicted of a crime or is subject to pending criminal charges in any jurisdiction other than a minor traffic violation.

(E) He or she has otherwise acquired a disqualifying condition as described in subdivision (a) of Section 5096.2.

(2) An individual who fails to cease practice as required by subdivision (e) or who fails to provide the notice required by paragraph (1) shall be subject to the personal and subject matter jurisdiction and disciplinary authority of the board as if the practice privilege were a license and the individual were a licensee. An individual in violation of subdivision (e) or paragraph (1) shall, for a minimum of one year from the date the board knows there has been a violation of subdivision (e) or paragraph (1), not practice in this state and shall not have the possibility of reinstatement during that period. If the board determines that the failure to cease practice or provide the notice was intentional, that individual shall be prohibited from practicing in this state in the same manner as if a licensee has his or her practice privilege revoked and there shall be no possibility of reinstatement for a minimum of two years.

(j) This section shall become operative on July 1, 2013.

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

**Section 5096.1**

(a) Any individual, not a licensee of this state, who is engaged in any act which is the practice of public accountancy in this state, and who does not qualify to practice pursuant to the practice privilege described in Section 5096 and who has a license, certificate, or other authority to engage in the practice of public accountancy in any other state, regardless of whether active, inactive, suspended, or subject to renewal on payment of a fee or completion of an educational or ethics requirement, is:

(1) Deemed to be practicing public accountancy unlawfully in this state.

(2) Subject to the personal and subject matter jurisdiction and disciplinary authority of the board and the courts of this state to the same extent as a holder of a valid practice privilege.

(3) Deemed to have appointed the regulatory agency of the state that issued the individual's certificate or license as the individual's agent on whom notice, subpoenas, or other process may be served in any action or proceeding by the board against the individual.

(b) The board may revoke a practice privilege from any individual who has violated this section or implementing regulations or committed any act which would be grounds for discipline against the holder of a practice privilege.

(c) This section shall become operative on July 1, 2013.

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

**Section 5096.2**

(a) (1) Practice privileges may be revoked for any of the following reasons:

(A) If an individual no longer qualifies under, or complies with, the provisions of this article, including, but not limited to, Section 5096, or implementing regulations.

(B) If an individual commits any act that if committed by an applicant for licensure would be grounds for denial of a license under Section 480.

(C) If an individual commits any act that if committed by a licensee would be grounds for discipline under Section 5100.

(D) If an individual commits any act outside of this state that would be a violation if committed within this state.

(E) If an individual acquires at any time, while exercising the practice privilege, any disqualifying condition under paragraph (2).

(2) Disqualifying conditions include:

(A) Conviction of any crime other than a minor traffic violation.

(B) 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.

(C) Any judgment or arbitration award against the individual involving the professional conduct of the individual in the amount of thirty thousand dollars (\$30,000) or greater.

(D) Any other conditions as specified by the board in regulation.

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(3) The board may adopt regulations exempting specified minor occurrences of the conditions listed in subparagraph (B) of paragraph (2) from being disqualifying conditions under this subdivision.

(b) The board may revoke practice privileges using either of the following procedures:

(1) Notifying the individual in writing of all of the following:

(A) That the practice privilege is revoked.

(B) The reasons for revocation.

(C) The earliest date on which the individual may qualify for a practice privilege.

(D) That the individual has a right to appeal the notice and request a hearing under the provisions of the Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code) if a written notice of appeal and request for hearing is made within 60 days.

(E) That, if the individual does not submit a notice of appeal and request for hearing within 60 days, the board's action set forth in the notice shall become final.

(2) Filing a statement of issues under the Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code).

(c) An individual whose practice privilege has been revoked may only subsequently exercise the practice privilege upon application to the board for reinstatement of the practice privilege not less than one year after the effective date of the notice or decision revoking the practice privilege, unless a longer time period is specified in the notice or decision revoking the practice privilege.

(d) 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 this article or regulations adopted thereunder.

(e) The board may recover its costs pursuant to Section 5107 as part of any disciplinary proceeding against the holder of a practice privilege. (f) The provisions of the Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code), including, but not limited to, the commencement of a disciplinary proceeding by the filing of an accusation by the board, shall apply under this article.

(g) If the board revokes or otherwise limits an individual's practice privilege, the board shall promptly notify the regulatory agency of the state or states in which the individual is licensed, and the United States Securities and Exchange Commission, the Public Company Accounting Oversight Board, and the National Association of State Boards of Accountancy.

(h) This section shall become operative on July 1, 2013.

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

### Section 5096.4

(a) The right of an individual to practice in this state under a practice privilege may be administratively suspended at any time by an order issued by the board or its

executive officer, without prior notice or hearing, for the purpose of conducting a disciplinary investigation, proceeding, or inquiry concerning the individual's competence or qualifications to practice under practice privileges, failure to timely respond to a board inquiry or request for information or documents, or under other conditions and circumstances provided for by board regulation.

(b) The administrative suspension order is immediately effective when mailed to the individual's address of record or agent for notice and service as provided for in this article.

(c) The administrative suspension order shall contain the following:

(1) The reason for the suspension.

(2) A statement that the individual has the right, within 30 days, to appeal the administrative suspension order and request a hearing.

(3) A statement that any appeal hearing will be conducted under the provisions of the Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code) applicable to individuals who are denied licensure, including the filing of a statement of issues by the board setting forth the reasons for the administrative suspension of practice privileges and specifying the statutes and rules with which the individual must show compliance by producing proof at the hearing and in addition any particular matters that have come to the attention of the board and that would authorize the administrative suspension, or the revocation of practice privileges.

(d) The burden is on the holder of the suspended practice privilege to establish both qualification and fitness to practice under practice privileges.

(e) The administrative suspension shall continue in effect until terminated by an order of the board or the executive officer.

(f) Administrative suspension is not discipline and shall not preclude any individual from applying for a license to practice public accountancy in this state.

(g) Proceedings to appeal an administrative suspension order may be combined or coordinated with proceedings for revocation or discipline of a practice privilege.

(h) This section shall become operative on July 1, 2013.

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

### **Section 5096.5**

(a) Notwithstanding any other provision of this article, an individual may not sign any attest report pursuant to a practice privilege unless the individual meets the experience requirements of Section 5095.

(b) This section shall become operative on July 1, 2013.

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

### **Section 5096.6**

(a) In addition to the authority otherwise provided for by this code, the board may delegate to the executive officer the authority to issue any notice or order provided for in

this article and to act on behalf of the board, including, but not limited to, issuing an interim suspension order, subject to the right of the individual to timely appeal and request a hearing as provided for in this article.

(b) This section shall become operative on July 1, 2013.

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

### **Section 5096.7**

(a) Anywhere the term “license,” “licensee,” “permit,” or “certificate” is used in this chapter or Division 1.5 (commencing with Section 475), it shall include persons holding practice privileges under this article, unless otherwise inconsistent with the provisions of the article.

(b) Anywhere the term “employee” is used in this article it shall include, but is not limited to, partners, shareholders, and other owners.

(c) For purposes of this article, the term “license” includes certificate or permit.

(d) This section shall become operative on July 1, 2013.

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

### **Section 5096.9**

(a) The board is authorized to adopt regulations to implement, interpret, or make specific the provisions of this article.

(b) The board shall adopt emergency regulations in accordance with the Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code) to establish policies, guidelines, and procedures to initially implement this article as it goes into effect on July 1, 2013. The adoption of the regulations shall be considered by the Office of Administrative Law to be necessary for the immediate preservation of the public peace, health and safety, or general welfare. The emergency regulations shall be submitted to the Office of Administrative Law for filing with the Secretary of State in accordance with the Administrative Procedure Act.

### **Section 5096.12**

(a) A certified public accounting firm that is authorized to practice in another state and that does not have an office in this state may engage in the practice of public accountancy in this state through the holder of a practice privilege provided that:

(1) The practice of public accountancy by the firm is limited to authorized practice by the holder of the practice privilege.

(2) A firm that engages in practice under this section is deemed to consent to the personal, subject matter, and disciplinary jurisdiction of the board with respect to any practice under this section.

(b) The board may revoke, suspend, issue a fine pursuant to Article 6.5 (commencing with Section 5116), or otherwise restrict or discipline the firm or any act

that would be grounds for discipline against a holder of a practice privilege through which the firm practices.

(c) A firm that provides the services described in subdivision (d) of Section 5096 shall obtain a registration from the board.

(d) This section shall become operative on July 1, 2013.

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

**Section 5096.20**

(a) To ensure that Californians are protected from out-of-state licensees with disqualifying conditions who may unlawfully attempt to practice in this state under a practice privilege, prior to July 1, 2013, the board shall add an out-of-state licensee feature to its license lookup tab of the home page of its Internet Web site that allows consumers to obtain information about an individual whose principal place of business is not in this state and who seeks to exercise a practice privilege in this state, that is at least equal to the information that was available to consumers through its home page prior to January 1, 2013, through the practice privilege form previously filed by out-of-state licensees pursuant to Section 5096, as added by Chapter 921 of the Statutes of 2004, and the regulations adopted thereunder. At minimum, these features shall include all of the following:

(1) The ability of the consumer to search by name and state of licensure.

(2) The disclosure of information in the possession of the board, which the board is otherwise authorized to publicly disclose, about an individual exercising a practice privilege in this state, including, but not limited to, whether the board has taken action of any form against that individual and, if so, what the action was or is.

(3) A disclaimer that the consumer must click through prior to being referred to any other Internet Web site, which in plain language explains that the consumer is being referred to an Internet Web site that is maintained by a regulatory agency or other entity that is not affiliated with the board. This disclaimer shall include a link to relevant sections of this article that set forth disqualifying conditions, including, but not limited to, Section 5096.2.

(4) A statement in plain language that notifies consumers that they are permitted to file complaints against such individuals with the board.

(5) A link to the Internet Web site or sites that the board determines, in its discretion, provides the consumer the most complete and reliable information available about the individual's status as a license holder, permit holder, or certificate holder.

(6) If the board of another state does not maintain an Internet Web site that allows a consumer to obtain information about its licensees including, but not limited to, disciplinary history, and that information is not available through a link to an Internet Web site maintained by another entity, a link to contact information for that board, which contains a disclaimer in plain language that explains that the consumer is being referred to a board that does not permit the consumer to obtain information, including, but not limited to, disciplinary history, about individuals through the Internet Web site, and that the out-of-state board is not affiliated with the board.

(b) The board shall biennially survey the Internet Web sites and disclosure policies of other boards to ensure that its disclaimers are accurate.

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

**Section 5096.21**

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

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

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

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

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

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

(d) (1) The board shall report to the relevant policy committees of the Legislature, the director, and the public, upon request, preliminary determinations made pursuant to this section no later than July 1, 2015. The board shall, prior to January 1, 2016, and thereafter as it deems appropriate, review its determinations made pursuant to subdivision (b) to ensure that it is in compliance with this section.

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

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

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

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

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

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

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



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**CPC Item III.**  
November 15, 2012

**CBA Item X.A.3.**  
November 15-16, 2012

## **Discussion and Policy Decisions on a Potential Rulemaking Regarding Practice Privilege**

**Presented by:** Dominic Franzella, Licensing Chief

**Date:** October 30, 2012

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### **Purpose of the Item**

The purpose of this agenda item is to provide the California Board of Accountancy (CBA) with initial concepts for draft regulatory sections specific to implementing the practice privilege provisions included in Senate Bill (SB) 1405. In certain areas, the CBA will need to provide direction on policy issues so that staff can develop language for the draft regulatory sections.

Based on direction provided and decisions rendered by the CBA, staff will prepare initial draft regulatory language for CBA consideration at the January 2013 meeting.

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

The CBA is being asked the following:

1. To provide input on the initial concepts for the draft regulatory sections related
2. To provide direction on certain policy issues so that staff can develop language for the draft regulatory sections

### **Background**

On September 20, 2012 Governor Brown signed into law SB 1405, which included two changes to the California Accountancy Act. First, the bill established the ability for active duty service members to apply for and receive a military inactive status. Second, the bill significantly modified the CBA's practice privilege provisions, with one of the more important changes being that in most cases out-of-state CPAs who are licensed to practice public accountancy in another jurisdiction can do so in California without having to notify the CBA and without paying a fee.

### **Comments**

Although SB 1405 provides for a high degree of detail there does exist some provisions that the CBA will need to define via regulation. In order to ensure that the necessary regulations take effect concurrently with the practice privilege provisions included in SB 1405 on July 1, 2013, the CBA will need to undertake emergency rulemaking activities provided for in recently-amended Business and Professions (B&P) Code Section 5096.9. This will require that the CBA provide final regulatory text to the Office of Administrative Law on or before June 20, 2013. For additional information on the

## Discussion and Policy Decisions on a Potential Rulemaking Regarding Practice Privilege

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rulemaking activities associated with implementing regulations for the new practice provisions, please refer to **CBA Item X.A.2**.

In reviewing the law and determining the types of regulations that the CBA will and may need to enact to effectively implement the new practice privilege provisions, staff consulted with legal counsel and have determined that a possible six new regulation sections may be needed.

In the sections that follow, staff have provided an overview for each of the possible new regulatory sections. For each section, staff is requesting the CBA to provide input on the proposed concepts for the regulatory sections, provide needed direction on certain policy issues to develop the draft language for each section, or, in some cases, both. For each section, staff have provided information to assist the CBA in its deliberations. Additionally, for reference purposes, staff have included **Attachment 1**, which are the relevant sections of SB 1405 for the practice privilege provisions.

### 1. Establishing Substantial Equivalency

B&P Code Section 5096 provides three options for an out-of-state licensee to qualify for a practice privilege:

1. The individual has continually practiced public accountancy under a valid license issued by any state for at least four of the last 10 years.
2. The individual has a license, certificate, or permit from a state which the CBA has determined to have education, examination, and experience qualifications for licensure substantially equivalent to California's qualifications for Pathway 2 (baccalaureate degree, with a minimum of 150 semester hours and one year general accounting experience).
3. The individual possesses education, examination, and experience qualifications for licensure which have been determined by the CBA to be substantially equivalent to California's qualifications under Pathway 2.

For this regulatory section staff will develop language to establish a list of substantially equivalent states and individual substantial equivalency (numbers 2 and 3 above). In developing how best to approach drafting the language, since both qualifications exist in the present version of practice privilege, staff will use the prior policy decisions the CBA made as it relates to the present practice privilege provisions.

#### *Substantially Equivalent States*

Under the present practice privilege provisions, the CBA made a policy decision to rely on the National Association of State Boards of Accountancy's (NASBA) list of substantially equivalent states. Based on discussion with legal counsel, however, since the same rule/standard is applied as a general application for all affected parties, the CBA must establish the list via regulation. For the new practice privilege provisions, staff intend on drafting regulatory language indicating that the CBA will rely on NASBA's list of substantially equivalent states for purposes of establishing a list of CBA substantially equivalent states.

## **Discussion and Policy Decisions on a Potential Rulemaking Regarding Practice Privilege**

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In establishing its list of substantially equivalent states, NASBA evaluates each state based on its substantial equivalence to the Uniform Accountancy Act (UAA). For NASBA to deem a state substantially equivalent, at the time of licensure, the state must require a baccalaureate degree with a minimum of 150 semester units of education, successful passage of the Uniform CPA Examination, and one year of general accounting experience. Presently, the Virgin Islands is the only state (jurisdiction) excluded from NASBA's list. It appears that most, if not all, states that have adopted mobility rely on NASBA's list of substantially equivalent states.

Staff would like to highlight that by establishing the list via regulation, at any point should the CBA need to add or remove a state, it would require the CBA to undertake a rulemaking. Given that the CBA will only remove a state from this list when it determines that it is necessary to protect public interest, it appears a reasonable argument may be made that the CBA could undertake an emergency rulemaking to remove the state.

### *Individual Substantial Equivalency*

Under the present practice privilege provisions, the CBA requires an individual to submit his/her qualifications to NASBA's CredentialNet service for review. After which and prior to beginning practice in California, the individual must provide the NASBA CredentialNet file number as part of the practice privilege notification process.

For purposes of the new practice privilege provisions, staff intend on drafting regulatory language that will continue to use NASBA's CredentialNet for purposes of having individuals establish individual substantial equivalency. Staff plan on making one minor change to the policy originally adopted by the CBA. In keeping with the spirit and intent of no notice, staff plan on requiring an individual to retain the NASBA CredentialNet file number and only provide it to the CBA upon request.

### **Action Needed**

Staff is requesting that the CBA determine whether it wishes to adopt staff's plan for relying on the use of NASBA's substantial equivalent states list and NASBA's CredentialNet service for purposes of having individuals establish, when necessary, individual substantial equivalency for development of this section. If, however, the CBA would rather move in an alternate direction, it would require the CBA to develop criteria for its own list of states and criteria for how the CBA will review individuals for individual substantial equivalency.

### **2. Definitions**

Staff believe that a potential exists for three definitions resulting from the new practice privilege provisions: (1) Headquartered in California, (2) Principal Place of Business, and (3) Minor Traffic Violation. Although for this section staff is seeking policy direction from the CBA on whether it wishes to define one or more of the aforementioned terms, by no means is the CBA required to develop any definitions.

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### *Headquartered in California*

B&P Code Sections 5096(d) and 5096.12(c) require that in certain circumstances an out-of-state accounting firm register with the CBA so that a practice privilege holder may practice through it. Specifically, an out-of-state accounting firm intending to perform the following services for a California-headquartered entity must register with the CBA:

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

In evaluating the UAA's and other states' requirements for mobility/practice privilege, staff could not locate any definitions for "headquartered." Therefore, in order to provide the CBA with an idea of a possible definition for "headquartered in California," working with legal counsel, the below definition is being provided. The definition relies on two elements: (1) the usual and customary meaning of the word headquartered as defined in the dictionary and (2) the California Department of Education's definition for determining contractors and applicants headquarters for purposes of child development programs.

- *"Headquartered in California" shall mean an entity that has its primary administrative office physically located in California from which the entity's activities are directed, controlled, or coordinated. The primary administrative office is that office which houses the executive officer(s), the fiscal functions, and other centralized support services as documented to the Internal Revenue Service.*

In evaluating the above definition, if the CBA relied solely on the first sentence of the definition (that drawn from the dictionary), it would, in all likelihood, subject more out-of-state accounting firms to registration. By adding the second qualifying sentence (that drawn from the California Department of Education), it would, in all likelihood, subject fewer firms to registration.

### **Action Needed**

The CBA must determine if it wishes to define the term "headquartered in California." In deciding the need for a definition, the CBA may wish to consider that without a definition, an out-of-state accounting firm would need to rely on its best judgment in determining if it intends on performing services for a California-headquartered entity that would require registration.

### *Principal Place of Business*

The requirement that an individual not maintain a principal place of business in California exists in the present practice privilege requirements. This same requirement is maintained in the new practice privilege provision – specifically, B&P Code Section 5096.

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When the initial regulations further defining the existing practice privilege statutes took effect, the CBA did not define the term principal place of business. As part of its present *2010-2012 Strategic Plan*, however, the CBA did include an objective to define the term. The CBA and staff took no actions to define the term since stakeholders were actively seeking to amend the practice privilege provisions to move toward the no notice, no fee, no escape version of practice privilege being adopted nationally.

Staff reviewed both the UAA and other states' requirements for mobility/practice privilege to determine, if and how, the term "principal place of business" was defined. The UAA defines the term principal place of business as "the office location designated by the licensee for purposes of substantial equivalency and reciprocity." As for how other states define the term, staff found the following:

- Eleven states do not define the term (Alabama, Alaska, Delaware, Florida, Idaho, Illinois, Indiana, Nebraska, Nevada, Oregon, Texas)
- Thirteen states have adopted the exact, or substantially similar, text of the UAA (Colorado, Georgia, Kansas, Michigan, Mississippi, New Hampshire, New Jersey, Oregon, South Carolina, Utah, Vermont, West Virginia, Wyoming)
- Four states include slightly more specificity by adding the term "for the practice of public accounting" (Arizona, Arkansas, Connecticut, Iowa)
- Two states provide for a definition that deviates from the UAA (New York, Washington). Specifically, New York's definition states "Principal place of business means the office location designated by the licensee from which, the person directs, controls, and coordinates his or her professional services." Washington's definition states "Principal place of business means a single fixed location designated by the individual from which the individual or licensed firm directs, controls, or coordinates the majority of his or her business activities."

In an effort to provide the CBA with alternatives beyond those used by NASBA (via the UAA) and by the other state boards of accountancy, the below definition is provided. This definition, which legal counsel assisted in preparing, seeks to more closely align the place of business with the practice of public accountancy (similar to the definitions developed by New York and Washington). Additionally, the definition includes elements of the Internal Revenue Service's (IRS) requirements for a establishing a location as a principal place of business for purposes of a tax deduction.

- *"Principal place of business" shall mean the physical location which is the primary location from which the individual performs activities that if performed by a certified public accountant or public accountant, are the practice of public accountancy as defined in Business and Professions Code Section 5051.*  
*(2) For the purposes of this subsection, the following factors shall be considered in determining what is considered a "primary location":*  
*(A) the relative importance of the activities performed at each place where the individual conduct business, and,*  
*(B) the amount of time spent at each place where the individual conduct business.*

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*(3) The location will be considered “primary” if the individual meets the following requirements:*

*(A) the individual uses the location exclusively and regularly for administrative or management activities of his or her business, and*

*(B) the individual has no other fixed location where he or she conducts substantial business activities.*

### **Action Needed**

The CBA must determine if it wishes to define the term “principal place of business.” If it elects to define the term, the CBA could look to guidance from the examples provided above, or the CBA could move forward with an alternate approach of its choosing. If the CBA chooses not to define the term, an out-of-state practitioner would need to use his/her best judgment in determining whether a California location serves as his/her principal place of business.

### *Minor Traffic Violation*

Given the fact that the CBA has already established a definition for this term as part of its rulemaking activities associated with the retroactive fingerprinting regulations, staff intend on mirroring the definition for purposes of the practice privilege provision.

Staff intend on using the following definition:

- *“Minor traffic violation” shall mean traffic infractions under \$1000 not involving alcohol, dangerous drugs, or controlled substances.*

### **Action Needed**

Staff is requesting that the CBA determine whether it wishes to adopt staff’s initial plan for including a definition for the term “minor traffic violation” and, if so, does it wish rely on the above-provided definition. If the CBA would rather define the term differently for purposes of the new practice privilege provisions, it will need to provide staff with direction. If, however, the CBA elects not to include a definition, staff will be unable to provide specific guidance on what constitutes a minor traffic violation and would thus be left up to each individual to determine on a case-by-case basis.

### **3. Practice Privilege Forms for Individuals**

Staff intend on developing three forms for individuals for the purposes of the new practice privilege requirements. The first two forms are required by statute, while the third form is intended to collect necessary information from an individual petitioning the CBA for reinstatement of practice rights under a practice privilege.

In order to require that an individual use a particular form, the CBA will need to develop the forms via regulation. Historically, the CBA has taken the approach of exposing the form as part of the rulemaking process and incorporating the form by reference. Below is an overview of the three forms staff plan on developing.

1. Cessation of Notification Form – If an individual has certain events occur after he/she began practice in California under a practice privilege, B&P Code Section 5096(f) requires the individual to cease practice and submit information to the

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CBA. The individual is subsequently prohibited from practicing in California until the CBA provides written approval.

2. Pre-Notification Form – Prior to beginning practice in California under a practice privilege, B&P Code Section 5096(i) requires an individual with certain events that occurred within the prior seven years to obtain CBA approval.
3. Reinstatement of Practice Privilege Form – For an individual whose practice rights under a practice privilege were revoked by the CBA, he/she must petition the CBA for reinstatement. To ensure the CBA collects all relevant information, staff will develop a form that will closely mirror the form presently used by the CBA when an individual petitions for reinstatement of his/her revoked CPA license.

### Action Needed

Although no CBA action is needed on the first two forms, as they are required by statute, the CBA will need to determine whether it concurs with staff's plan to develop a third form for collecting information related to reinstatement of revoked practice privilege rights. If the CBA decides not to establish and require a form, it may receive inconsistent information from petitioner to petitioner for purposes of evaluating petitions for reinstatement of a revoked practice privilege.

### 4. Out-of State Accounting Firms Registration

As noted previously in the area outlining Definitions, if an out-of-state accounting firm intends on performing certain services for a California-headquartered entity, it must first obtain a registration from the CBA. It appears that many states have adopted this type of requirement for an out-of-state accounting firm to register with the state prior to performing these similar services. What appears to be different is that the states that require this type of registration require the out-of-state accounting firm to undergo full firm licensure.

Although, B&P Code Section 5070, 5096(d), and 5096.12 outline the authority for registration of an out-of-state accounting firm, nowhere do the sections provide information on what the CBA must collect in order to register an out-of-state accounting firm. Given the intent of mobility (quick and relatively seamless practice rights state-to-state) and the manner in which B&P Code Section 5070 was drafted (what appears to be a specific reference for out-of-state accounting firm registration), it appears it was not intended for an out-of-state accounting firm to undergo a full licensure process. This presumption seems to be further underscored by the fact that many out-of-state accounting firms can have a form of legal organization not recognized by the CBA or California (for instance a limited liability company or LLC).

Since staff presume an out-of-state accounting firm will not undergo the full licensure process, for this section staff is seeking policy direction on the following two issues related to out-of-state accounting firm registration:

1. The information the CBA wants to collect for purposes of initial registration.
2. Whether the CBA wants to require an out-of-state accounting firm to renew the registration and, if so, the frequency of the renewal.

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Staff do not intend on including a requirement that an out-of-state accounting firm pay a fee for the initial registration; further, if the CBA does decide a renewal of the registration is necessary, staff do not intend on requiring a fee for renewal.

### *Initial Registration of an Out-of-State Accounting Firm*

Based on discussion with legal counsel, aside from the most pertinent information for an out-of-state accounting firm (accounting firm name, address of record, contact information, and state of licensure), the CBA must also collect ownership information, which may vary based on the form of legal organization. For example, an LLC may need to provide all ownership information, while a corporation may simply need to provide the majority shareholder. According to legal counsel this is necessary for purposes of enforcement-related matters.

Additionally, based on discussion with legal counsel, for purposes of B&P Code Section 144 (**Attachment 2**) this would be considered an application and thus require that the applicant be fingerprinted. Legal counsel has advised staff that for purposes of registering an out-of-state accounting firm that operates as a sole proprietorship or legally organized as general partnership, it would require all owners to submit fingerprints to the Department of Justice (DOJ). Furthermore, legal counsel has advised staff that it should collect fingerprint information on all designated owners.

As members give consideration to the information it wishes to collect for purposes of out-of-state accounting firm registration, it may want to consider the following:

- The CBA presently collects all ownership information for registering California-licensed accounting firms – corporations or partnerships (general partnerships or limited liability partnerships).
- The CBA does not require that all owners of a California-licensed accounting firm submit to fingerprinting.
- For any individual required to undergo fingerprinting, since the individual will be located out-of-state, the CBA will need to send them fingerprint cards as Live Scan is only available at locations in California.
- The fee charged by the DOJ for fingerprint processing is \$49.
- The out-of-state accounting firm will need to remit the processing fee to the CBA for each individual requiring fingerprinting.
- The out-of-state accounting firm would be charged a rolling fee by the agency that completes the fingerprinting.

Since staff do not possess the expertise in the area of requirements associated with firm registration, for this section, staff will defer to legal counsel should the CBA have specific questions related the minimum requirements for initial registration of an out of state accounting firm.

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### Action Needed

The CBA must decide the following related to the initial registration of an out-of-state accounting firm:

1. Does it want to require submission of all ownership information?
2. Does it want to require owners associated with the accounting firm to submit fingerprints?

### *Renewal of an Out-of-State Accounting Firm Registration*

After an out-of-state accounting firm has obtained the required registration, the CBA must consider whether to require an out-of-state accounting firm to renew the registration. As the CBA gives consideration to this policy issue, it may wish to consider the following:

- Staff find nothing in the law that appears to expressly require the renewal of the registration.
- The information originally submitted with the registration form by an out-of-state accounting firm may become outdated.
- The CBA requires all license types, including accounting firms, to renew the license every two years.
- The CBA requires sole proprietorships registered under a fictitious name permit (in essence a doing business as) to renew the registration every five years.

### Action Needed

The CBA must determine if it wishes to have an out-of-state accounting firm renew its registration. If it does decide to have the registration renewed, the CBA must also determine the frequency of the renewal requirement.

### 5. Appeals

In three instances the CBA can take action to suspend an individual's right to practice under a practice privilege, short of revocation. These types of suspensions can be found in B&P Code Section 5096 – specifically subdivisions (g), (h), and (i). In all three instances, staff presume the Executive Officer will act on the CBA's behalf as presently done when reviewing disqualifying conditions for practice privilege notifications.

If this process is employed, in these three areas, none of the decisions rendered by the Executive Officer would provide an out-of-state licensee an ability to appeal the decision, including under the Administrative Procedure Act. To provide some level of due process, staff intend on including a regulation section providing an appeal process in these limited circumstances. Staff will look to CBA Regulation Section 49 (**Attachment 3**) since it outlines how an individual can appeal matters to the CBA related to a CBA committee or staff decision.

### Action Needed

The CBA must determine: (1) if it wishes to have the Executive Officer decide matters under subsections (g), (h), and (i) of B&P Code Section 5096 and (2) if so, if it wishes to include an option for an individual the ability to appeal the Executive Officer's decision.

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If the CBA does not wish to move forward with staff's plan for having the Executive Officer evaluate possible suspensions under these three provisions, it will require the CBA to take action on the possible suspension at their regularly-scheduled meetings. As a result, individuals may have up to additional six to eight weeks of time added to the review process.

### **6. Response to Board Inquiry**

Staff intend on developing regulatory language similar to present CBA Regulation Section 34 (**Attachment 4**), which is in the current practice privilege regulations. This will include citation and fine authority.

### **Action Needed**

The CBA must decide if it concurs with staff's plan of establishing a regulation requiring a response to CBA inquiries and, if so, to develop the language in a similar manner to the existing language found in CBA Regulation Section 34.

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

Based on the determinations and policy decisions made the CBA, staff will provide information on the possible fiscal/economic impact at the January 2013 meeting.

### **Recommendation**

Staff is requesting the CBA to approve its initial plan for regulatory sections related to the new practice privilege provisions and to direct staff to draft regulatory language based on any relevant policy decisions provided by the CBA.

### **Attachments**

1. Senate Bill 1405 – Practice Privilege Provisions Set to Take Effect July 1, 2013
2. B&P Code Section 144
3. CBA Regulation Section 49
4. CBA Regulation Section 34

**SENATE BILL 1405 – PRACTICE PRIVILEGE PROVISIONS SET TO TAKE  
EFFECT JULY 1, 2013**

**BUSINESS AND PROFESSIONS CODE**

**Section 5070**

Permits to engage in the practice of public accountancy in this state shall be issued by the board only to holders of the certificate of certified public accountant issued under this chapter and to those partnerships, corporations, and other persons who, upon application approved by the board, are registered with the board under this chapter. Notwithstanding any other provision of law, the board may register an entity organized and authorized to practice public accountancy under the laws of another state for the purpose of allowing that entity to satisfy the registration requirement set forth in Section 5096.12, provided that (1) the certified public accountants providing services in California qualify for the practice privilege, and (2) the entity satisfies all other requirements to register in this state, other than its form of legal organization.

All applicants for registration shall furnish satisfactory evidence that the applicant is entitled to registration and shall pay the fee as provided in Article 8 (commencing with Section 5130). Every partnership, corporation, and other person to whom a permit is issued after December 31, 1962, shall, in addition to any other fee which may be payable, pay the initial permit fee provided in Article 8 (commencing with Section 5130). Each partnership, corporation, and other person issued a permit by the board to practice as a certified public accountant or as a public accountant shall be furnished with a suitable certificate evidencing that registration.

**Section 5072**

(a) No persons shall engage in the practice of accountancy as a partnership unless the partnership is registered by the board.

(b) A partnership, other than a limited partnership, may be registered by the board to engage in the practice of public accountancy provided it meets the following requirements:

(1) At least one general partner shall hold a valid permit to practice as a certified public accountant, public accountant, or accountancy corporation, or shall be an applicant for a certificate as a certified public accountant under Sections 5087 and 5088, or the partnership shall be registered pursuant to subdivision (c) of Section 5096.12.

(2) Each partner engaged within this state in the practice of public accountancy as defined by Section 5051 shall hold a valid permit to practice in this state or shall have applied for a certificate as a certified public accountant under Sections 5087 and 5088, except for a partner with practice privileges pursuant to Section 5096.

(3) Each partner not engaged in the practice of public accountancy within this state shall be a certified public accountant in good standing of some state, except as permitted by Section 5079.

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(4) Each resident manager in charge of an office of the firm in this state shall be a licensee in good standing of this state, or shall have applied for a certificate as a certified public accountant under Sections 5087 and 5088.

(c) This section shall become operative on July 1, 2013.

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

### Section 5096

(a) An individual whose principal place of business is not in this state and who has a valid and current license, certificate, or permit to practice public accountancy from another state may, subject to the conditions and limitations in this article, engage in the practice of public accountancy in this state under a practice privilege without obtaining a certificate or license under this chapter if the individual satisfies one of the following:

(1) The individual has 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.

(2) The individual has a license, certificate, or permit from a state which has been determined by the board to have education, examination, and experience qualifications for licensure substantially equivalent to this state's qualifications under Section 5093.

(3) The individual possesses education, examination, and experience qualifications for licensure which have been determined by the board to be substantially equivalent to this state's qualifications under Section 5093.

(b) The board may designate states as substantially equivalent under paragraph (2) of subdivision (a) and may accept individual qualification evaluations or appraisals conducted by designated entities, as satisfying the requirements of paragraph (3) of subdivision (a).

(c) An individual who qualifies for the practice privilege under this section may engage in the practice of public accountancy in this state, and no notice, fee, or other requirement shall be imposed on that individual by the board.

(d) An individual who qualifies for the practice privilege under this section may perform the following services only through a firm of certified public accountants that has obtained a registration from the board pursuant to Section 5096.12:

(1) An audit or review of a financial statement for an entity headquartered in California.

(2) A compilation of a financial statement when that person expects, or reasonably might expect, that a third party will use the financial statement and the compilation report does not disclose a lack of independence for an entity headquartered in California.

(3) An examination of prospective financial information for an entity headquartered in California.

(e) An individual who holds a practice privilege under this article:

(1) Is subject to the personal and subject matter jurisdiction and disciplinary authority of the board and the courts of this state.

(2) Shall comply with the provisions of this chapter, board regulations, and other laws, regulations, and professional standards applicable to the practice of public

accountancy by the licensees of this state and to any other laws and regulations applicable to individuals practicing under practice privileges in this state except the individual is deemed, solely for the purpose of this article, to have met the continuing education requirements and ethics examination requirements of this state when the individual has met the examination and continuing education requirements of the state in which the individual holds the valid license, certificate, or permit on which the substantial equivalency is based.

(3) Shall not provide public accountancy services in this state from any office located in this state, except as an employee of a firm registered in this state. This paragraph does not apply to public accountancy services provided to a client at the client's place of business or residence.

(4) Is deemed to have appointed the regulatory agency of the state that issued the individual's certificate, license, or permit upon which substantial equivalency is based as the individual's agent on whom notices, subpoenas, or other process may be served in any action or proceeding by the board against the individual.

(5) Shall cooperate with any board investigation or inquiry and shall timely respond to a board investigation, inquiry, request, notice, demand, or subpoena for information or documents and timely provide to the board the identified information and documents.

(6) Shall cease exercising the practice privilege in this state if the regulatory agency in the state in which the individual's certificate, license, or permit was issued takes disciplinary action resulting in the suspension or revocation, including stayed suspension, stayed revocation, or probation of the individual's certificate, license, or permit, or takes other disciplinary action against the individual's certificate, license, or permit that arises from any of the following:

(A) Gross negligence, recklessness, or intentional wrongdoing relating to the practice of public accountancy.

(B) Fraud or misappropriation of funds.

(C) Preparation, publication, or dissemination of false, fraudulent, or materially incomplete or misleading financial statements, reports, or information.

(7) Shall cease exercising the practice privilege in this state if convicted in any jurisdiction of any crime involving dishonesty, including, but not limited to, embezzlement, theft, misappropriation of funds or property, or obtaining money, property, or other valuable consideration by fraudulent means or false pretenses.

(8) Shall cease exercising the practice privilege if the United States Securities and Exchange Commission or the Public Company Accounting Oversight Board bars the individual from practicing before them.

(9) Shall cease exercising the practice privilege if any governmental body or agency suspends the right of the individual to practice before the body or agency.

(f) An individual who is required to cease practice pursuant to paragraphs (6) to (9), inclusive, of subdivision (e) shall notify the board within 15 calendar days, on a form prescribed by the board, and shall not practice public accountancy in this state pursuant to this section until he or she has received from the board written permission to do so.

(g) An individual who fails to cease practice as required by subdivision (e) or that fails to provide the notice required by subdivision (f) shall be subject to the personal and subject matter jurisdiction and disciplinary authority of the board as if the practice privilege were a license and the individual were a licensee. An individual in violation of

subdivision (e) or (f) shall, for a minimum of one year from the date the board learns there has been a violation of subdivision (e) or (f), not practice in this state and shall not have the possibility of reinstatement during that period. If the board determines 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.

(h) The board shall require an individual who provides notice to the board pursuant to subdivision (f) to cease the practice of public accountancy in this state until the board provides the individual with written permission to resume the practice of public accountancy in this state.

(i) (1) An individual to whom, within the last seven years immediately preceding the date on which he or she wishes to practice in this state, any of the following criteria apply, shall notify the board, on a form prescribed by the board, and shall not practice public accountancy in this state pursuant to this section until the board provides the individual with written permission to do so:

(A) He or she has been the subject of any final disciplinary action by the licensing or disciplinary authority of any other jurisdiction with respect to any professional license or has any charges of professional misconduct pending against him or her in any other jurisdiction.

(B) He or she has had his or her license in another jurisdiction reinstated after a suspension or revocation of the license.

(C) He or she has been denied issuance or renewal of a professional license or certificate in any other jurisdiction for any reason other than an inadvertent administrative error.

(D) He or she has been convicted of a crime or is subject to pending criminal charges in any jurisdiction other than a minor traffic violation.

(E) He or she has otherwise acquired a disqualifying condition as described in subdivision (a) of Section 5096.2.

(2) An individual who fails to cease practice as required by subdivision (e) or who fails to provide the notice required by paragraph (1) shall be subject to the personal and subject matter jurisdiction and disciplinary authority of the board as if the practice privilege were a license and the individual were a licensee. An individual in violation of subdivision (e) or paragraph (1) shall, for a minimum of one year from the date the board knows there has been a violation of subdivision (e) or paragraph (1), not practice in this state and shall not have the possibility of reinstatement during that period. If the board determines that the failure to cease practice or provide the notice was intentional, that individual shall be prohibited from practicing in this state in the same manner as if a licensee has his or her practice privilege revoked and there shall be no possibility of reinstatement for a minimum of two years.

(j) This section shall become operative on July 1, 2013.

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

**Section 5096.1**

(a) Any individual, not a licensee of this state, who is engaged in any act which is the practice of public accountancy in this state, and who does not qualify to practice pursuant to the practice privilege described in Section 5096 and who has a license, certificate, or other authority to engage in the practice of public accountancy in any other state, regardless of whether active, inactive, suspended, or subject to renewal on payment of a fee or completion of an educational or ethics requirement, is:

(1) Deemed to be practicing public accountancy unlawfully in this state.

(2) Subject to the personal and subject matter jurisdiction and disciplinary authority of the board and the courts of this state to the same extent as a holder of a valid practice privilege.

(3) Deemed to have appointed the regulatory agency of the state that issued the individual's certificate or license as the individual's agent on whom notice, subpoenas, or other process may be served in any action or proceeding by the board against the individual.

(b) The board may revoke a practice privilege from any individual who has violated this section or implementing regulations or committed any act which would be grounds for discipline against the holder of a practice privilege.

(c) This section shall become operative on July 1, 2013.

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

**Section 5096.2**

(a) (1) Practice privileges may be revoked for any of the following reasons:

(A) If an individual no longer qualifies under, or complies with, the provisions of this article, including, but not limited to, Section 5096, or implementing regulations.

(B) If an individual commits any act that if committed by an applicant for licensure would be grounds for denial of a license under Section 480.

(C) If an individual commits any act that if committed by a licensee would be grounds for discipline under Section 5100.

(D) If an individual commits any act outside of this state that would be a violation if committed within this state.

(E) If an individual acquires at any time, while exercising the practice privilege, any disqualifying condition under paragraph (2).

(2) Disqualifying conditions include:

(A) Conviction of any crime other than a minor traffic violation.

(B) 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.

(C) Any judgment or arbitration award against the individual involving the professional conduct of the individual in the amount of thirty thousand dollars (\$30,000) or greater.

(D) Any other conditions as specified by the board in regulation.

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(3) The board may adopt regulations exempting specified minor occurrences of the conditions listed in subparagraph (B) of paragraph (2) from being disqualifying conditions under this subdivision.

(b) The board may revoke practice privileges using either of the following procedures:

(1) Notifying the individual in writing of all of the following:

(A) That the practice privilege is revoked.

(B) The reasons for revocation.

(C) The earliest date on which the individual may qualify for a practice privilege.

(D) That the individual has a right to appeal the notice and request a hearing under the provisions of the Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code) if a written notice of appeal and request for hearing is made within 60 days.

(E) That, if the individual does not submit a notice of appeal and request for hearing within 60 days, the board's action set forth in the notice shall become final.

(2) Filing a statement of issues under the Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code).

(c) An individual whose practice privilege has been revoked may only subsequently exercise the practice privilege upon application to the board for reinstatement of the practice privilege not less than one year after the effective date of the notice or decision revoking the practice privilege, unless a longer time period is specified in the notice or decision revoking the practice privilege.

(d) 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 this article or regulations adopted thereunder.

(e) The board may recover its costs pursuant to Section 5107 as part of any disciplinary proceeding against the holder of a practice privilege. (f) The provisions of the Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code), including, but not limited to, the commencement of a disciplinary proceeding by the filing of an accusation by the board, shall apply under this article.

(g) If the board revokes or otherwise limits an individual's practice privilege, the board shall promptly notify the regulatory agency of the state or states in which the individual is licensed, and the United States Securities and Exchange Commission, the Public Company Accounting Oversight Board, and the National Association of State Boards of Accountancy.

(h) This section shall become operative on July 1, 2013.

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

### Section 5096.4

(a) The right of an individual to practice in this state under a practice privilege may be administratively suspended at any time by an order issued by the board or its

executive officer, without prior notice or hearing, for the purpose of conducting a disciplinary investigation, proceeding, or inquiry concerning the individual's competence or qualifications to practice under practice privileges, failure to timely respond to a board inquiry or request for information or documents, or under other conditions and circumstances provided for by board regulation.

(b) The administrative suspension order is immediately effective when mailed to the individual's address of record or agent for notice and service as provided for in this article.

(c) The administrative suspension order shall contain the following:

(1) The reason for the suspension.

(2) A statement that the individual has the right, within 30 days, to appeal the administrative suspension order and request a hearing.

(3) A statement that any appeal hearing will be conducted under the provisions of the Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code) applicable to individuals who are denied licensure, including the filing of a statement of issues by the board setting forth the reasons for the administrative suspension of practice privileges and specifying the statutes and rules with which the individual must show compliance by producing proof at the hearing and in addition any particular matters that have come to the attention of the board and that would authorize the administrative suspension, or the revocation of practice privileges.

(d) The burden is on the holder of the suspended practice privilege to establish both qualification and fitness to practice under practice privileges.

(e) The administrative suspension shall continue in effect until terminated by an order of the board or the executive officer.

(f) Administrative suspension is not discipline and shall not preclude any individual from applying for a license to practice public accountancy in this state.

(g) Proceedings to appeal an administrative suspension order may be combined or coordinated with proceedings for revocation or discipline of a practice privilege.

(h) This section shall become operative on July 1, 2013.

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

### **Section 5096.5**

(a) Notwithstanding any other provision of this article, an individual may not sign any attest report pursuant to a practice privilege unless the individual meets the experience requirements of Section 5095.

(b) This section shall become operative on July 1, 2013.

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

### **Section 5096.6**

(a) In addition to the authority otherwise provided for by this code, the board may delegate to the executive officer the authority to issue any notice or order provided for in

this article and to act on behalf of the board, including, but not limited to, issuing an interim suspension order, subject to the right of the individual to timely appeal and request a hearing as provided for in this article.

(b) This section shall become operative on July 1, 2013.

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

**Section 5096.7**

(a) Anywhere the term “license,” “licensee,” “permit,” or “certificate” is used in this chapter or Division 1.5 (commencing with Section 475), it shall include persons holding practice privileges under this article, unless otherwise inconsistent with the provisions of the article.

(b) Anywhere the term “employee” is used in this article it shall include, but is not limited to, partners, shareholders, and other owners.

(c) For purposes of this article, the term “license” includes certificate or permit.

(d) This section shall become operative on July 1, 2013.

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

**Section 5096.9**

(a) The board is authorized to adopt regulations to implement, interpret, or make specific the provisions of this article.

(b) The board shall adopt emergency regulations in accordance with the Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code) to establish policies, guidelines, and procedures to initially implement this article as it goes into effect on July 1, 2013. The adoption of the regulations shall be considered by the Office of Administrative Law to be necessary for the immediate preservation of the public peace, health and safety, or general welfare. The emergency regulations shall be submitted to the Office of Administrative Law for filing with the Secretary of State in accordance with the Administrative Procedure Act.

**Section 5096.12**

(a) A certified public accounting firm that is authorized to practice in another state and that does not have an office in this state may engage in the practice of public accountancy in this state through the holder of a practice privilege provided that:

(1) The practice of public accountancy by the firm is limited to authorized practice by the holder of the practice privilege.

(2) A firm that engages in practice under this section is deemed to consent to the personal, subject matter, and disciplinary jurisdiction of the board with respect to any practice under this section.

(b) The board may revoke, suspend, issue a fine pursuant to Article 6.5 (commencing with Section 5116), or otherwise restrict or discipline the firm or any act

that would be grounds for discipline against a holder of a practice privilege through which the firm practices.

(c) A firm that provides the services described in subdivision (d) of Section 5096 shall obtain a registration from the board.

(d) This section shall become operative on July 1, 2013.

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

### **Section 5096.20**

(a) To ensure that Californians are protected from out-of-state licensees with disqualifying conditions who may unlawfully attempt to practice in this state under a practice privilege, prior to July 1, 2013, the board shall add an out-of-state licensee feature to its license lookup tab of the home page of its Internet Web site that allows consumers to obtain information about an individual whose principal place of business is not in this state and who seeks to exercise a practice privilege in this state, that is at least equal to the information that was available to consumers through its home page prior to January 1, 2013, through the practice privilege form previously filed by out-of-state licensees pursuant to Section 5096, as added by Chapter 921 of the Statutes of 2004, and the regulations adopted thereunder. At minimum, these features shall include all of the following:

(1) The ability of the consumer to search by name and state of licensure.

(2) The disclosure of information in the possession of the board, which the board is otherwise authorized to publicly disclose, about an individual exercising a practice privilege in this state, including, but not limited to, whether the board has taken action of any form against that individual and, if so, what the action was or is.

(3) A disclaimer that the consumer must click through prior to being referred to any other Internet Web site, which in plain language explains that the consumer is being referred to an Internet Web site that is maintained by a regulatory agency or other entity that is not affiliated with the board. This disclaimer shall include a link to relevant sections of this article that set forth disqualifying conditions, including, but not limited to, Section 5096.2.

(4) A statement in plain language that notifies consumers that they are permitted to file complaints against such individuals with the board.

(5) A link to the Internet Web site or sites that the board determines, in its discretion, provides the consumer the most complete and reliable information available about the individual's status as a license holder, permit holder, or certificate holder.

(6) If the board of another state does not maintain an Internet Web site that allows a consumer to obtain information about its licensees including, but not limited to, disciplinary history, and that information is not available through a link to an Internet Web site maintained by another entity, a link to contact information for that board, which contains a disclaimer in plain language that explains that the consumer is being referred to a board that does not permit the consumer to obtain information, including, but not limited to, disciplinary history, about individuals through the Internet Web site, and that the out-of-state board is not affiliated with the board.

(b) The board shall biennially survey the Internet Web sites and disclosure policies of other boards to ensure that its disclaimers are accurate.

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

**Section 5096.21**

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

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

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

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

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

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

(d) (1) The board shall report to the relevant policy committees of the Legislature, the director, and the public, upon request, preliminary determinations made pursuant to this section no later than July 1, 2015. The board shall, prior to January 1, 2016, and thereafter as it deems appropriate, review its determinations made pursuant to subdivision (b) to ensure that it is in compliance with this section.

## Senate Bill 1405

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

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

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

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

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

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

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

**BUSINESS AND PROFESSIONS CODE  
SECTION 144**

(a) Notwithstanding any other provision of law, an agency designated in subdivision (b) shall require an applicant to furnish to the agency a full set of fingerprints for purposes of conducting criminal history record checks. Any agency designated in subdivision (b) may obtain and receive, at its discretion, criminal history information from the Department of Justice and the United States Federal Bureau of Investigation.

(b) Subdivision (a) applies to the following:

- (1) California Board of Accountancy.
- (2) State Athletic Commission.
- (3) Board of Behavioral Sciences.
- (4) Court Reporters Board of California.
- (5) State Board of Guide Dogs for the Blind.
- (6) California State Board of Pharmacy.
- (7) Board of Registered Nursing.
- (8) Veterinary Medical Board.
- (9) Board of Vocational Nursing and Psychiatric Technicians.
- (10) Respiratory Care Board of California.
- (11) Physical Therapy Board of California.
- (12) Physician Assistant Committee of the Medical Board of California.
- (13) Speech-Language Pathology and Audiology and Hearing Aid Dispenser Board.
- (14) Medical Board of California.
- (15) State Board of Optometry.
- (16) Acupuncture Board.
- (17) Cemetery and Funeral Bureau.
- (18) Bureau of Security and Investigative Services.
- (19) Division of Investigation.
- (20) Board of Psychology.
- (21) California Board of Occupational Therapy.
- (22) Structural Pest Control Board.
- (23) Contractors' State License Board.
- (24) Naturopathic Medicine Committee.
- (25) Professional Fiduciaries Bureau.
- (26) Board for Professional Engineers, Land Surveyors, and Geologists.

(c) For purposes of paragraph (26) of subdivision (b), the term "applicant" shall be limited to an initial applicant who has never been registered or licensed by the board or to an applicant for a new licensure or registration category.

**CALIFORNIA BOARD OF ACCOUNTANCY REGULATION  
SECTION 49**

(a) Any applicant who is aggrieved by any action of any of the board's committees or its staff may appeal from such action to the board. The appeal shall be filed within 24 months of the action being appealed or the mailing of the written notification from the board, whichever is later. 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 and residence address of the applicant making the appeal.

(2) The action being appealed from and the date of any written notification from the board.

(3) Any summary of the basis for the appeal, including any information which the applicant believes was not given adequate consideration by the committee or staff.

(b) The board will consider only appeals based on information previously considered by its committees or staff. If the applicant wishes to submit for consideration additional evidence or information not previously submitted to the board's committee or staff, such additional information should be submitted directly to the committee or staff within the request that its previous action be reconsidered. An appeal based on evidence or information not previously submitted to the committee or staff will be referred by the board to the appropriate committee or staff for further consideration.

**CALIFORNIA BOARD OF ACCOUNTANCY REGULATION  
SECTION 34**

(a) In addition to any other applicable sanction, failure to comply with the obligation to respond to Board inquiry pursuant to Section 5096(e)(5) could result in one or more of the following:

- (1) Issuance of a fine of \$250 to \$5,000;
- (2) An administrative suspension of current practice privilege pursuant to Business and Professions Code Section 5096.4; or
- (3) The requirement to obtain approval of the Board before commencing to practice under a future practice privilege.

(b) In assessing a fine amount, consideration shall be given to the factors listed in Section 95.3.

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**CPC Item IV.**

November 15, 2012

**CBA Item X.A.4.**

November 15-16, 2012

**Implementation of Section 27 of the Business and Professions Code and  
Consideration of Legislative Proposal Providing for Limitations on Timeframes  
for Posting**

**Presented by:** Rafael Ixta, Enforcement Division Chief

**Date:** October 10, 2012

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**Purpose of the Item**

The purpose of this agenda item is to present the California Board of Accountancy (CBA) with information regarding the implementation of section 27 of the Business and Professions (B&P) Code and provide an opportunity to discuss whether certain exceptions to that section should be proposed.

**Action(s) Needed**

The CBA will be asked to determine whether it wishes to pursue any legislative changes to provide exceptions to B&P Code section 27.

**Background**

On January 1, 2012, amendments to B&P Code section 27 (**Attachment 1**) took effect as a result of the passage of Senate Bill 706 of 2011 on which the CBA had taken a Neutral position. These amendments added the CBA to a list of boards and bureaus that are required to post enforcement actions on their websites. It also included accusations as a specified enforcement action that must be posted.

As previously indicated in the May 2012 and September 2012 Executive Officer Monthly Reports to CBA Members, "other enforcement actions," as used in subsection (a) of section 27, has been interpreted to mean that citation and fine information must now be placed on the CBA website.

To be in compliance with the law, CBA staff is taking the following steps to implement the requirement:

- revise information provided on the website and letters issued to licensees who may be subject to a citation and fine to notify them that the information will be posted to the CBA website;
- develop a means for posting the information to the website in a format similar to what is presently available for accusations;
- begin posting the required information; and,
- as resources become available, work on posting citation and fine information retroactively back to January 1, 2012, when the law became effective for the CBA.

## **Implementation of Section 27 of the Business and Professions Code and Consideration of Legislative Language Providing for Exceptions**

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In addition, there is no provision allowing removal of enforcement actions from the website. While the CBA previously had a policy of posting certain enforcement actions on its website, it also had a practice of removing most of those actions from the website after seven years with the exception of revocations, license surrenders, and permanent restrictions on a license which remained indefinitely.

### **Comments**

Section 27 is designed to provide consumers with easier access to enforcement information to allow them to make informed choices regarding any Department of Consumer Affairs licensees they may wish to hire. While enforcement actions are always public information, section 27 provides consumers with greater ease of access to that information.

However, since the majority of the CBA's citations are administrative in nature, such as failure to respond to a CBA inquiry or failure to provide documentation of continuing education, the CBA may wish to consider sponsoring legislation to provide for a time limit for certain citations to be posted on the Internet.

The Board of Behavioral Sciences (BBS), which has been subject to section 27 for some time, has a section of law in its practice act which authorizes the removal of citation and fine information from its website after five years provided the fine was \$1,500 or less.

Staff has provided proposed legislative language (**Attachment 2**) for the consideration of the CBA which is identical to the BBS language. If the CBA approves this language, it could either send this language to the Legislative Committee for vetting at the January 2013 CBA meeting, or it could direct staff to begin the process to have the language drafted by Legislative Counsel and begin looking for the best method for pursuing it as legislation.

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

There may be minor costs associated with tracking these citations and removing them from the website at the appropriate time.

### **Recommendation**

If the CBA supports removing citations from the website after a period of time, staff recommend that the CBA approve the language and direct staff to pursue it as legislation in the 2013 legislative year.

### **Attachment**

- 1 – B&P Code Section 27
- 2 – Proposed Legislative Language



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## **Attachment 1**

### **Business and Professions Code Section 27**

#### **§ 27.**

(a) Each entity specified in subdivisions (c), (d), and (e) shall provide on the Internet information regarding the status of every license issued by that entity in accordance with the California Public Records Act (Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1 of the Government Code) and the Information Practices Act of 1977 (Chapter 1 (commencing with Section 1798) of Title 1.8 of Part 4 of Division 3 of the Civil Code). The public information to be provided on the Internet shall include information on suspensions and revocations of licenses issued by the entity and other related enforcement action, including accusations filed pursuant to the Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code) taken by the entity relative to persons, businesses, or facilities subject to licensure or regulation by the entity. The information may not include personal information, including home telephone number, date of birth, or social security number. Each entity shall disclose a licensee's address of record. However, each entity shall allow a licensee to provide a post office box number or other alternate address, instead of his or her home address, as the address of record. This section shall not preclude an entity from also requiring a licensee, who has provided a post office box number or other alternative mailing address as his or her address of record, to provide a physical business address or residence address only for the entity's internal administrative use and not for disclosure as the licensee's address of record or disclosure on the Internet.

(b) In providing information on the Internet, each entity specified in subdivisions (c) and (d) shall comply with the Department of Consumer Affairs Guidelines for Access to Public Records.

(c) Each of the following entities within the Department of Consumer Affairs shall comply with the requirements of this section:

(1) The Board for Professional Engineers, Land Surveyors, and Geologists shall disclose information on its registrants and licensees.

(2) The Bureau of Automotive Repair shall disclose information on its licensees, including auto repair dealers, smog stations, lamp and brake stations, smog check technicians, and smog inspection certification stations.

(3) The Bureau of Electronic and Appliance Repair, Home Furnishings, and Thermal Insulation shall disclose information on its licensees and registrants, including major appliance repair dealers, combination dealers (electronic and appliance), electronic repair dealers, service contract sellers, and service contract administrators.

(4) The Cemetery and Funeral Bureau shall disclose information on its licensees, including cemetery brokers, cemetery salespersons, cemetery managers, crematory

managers, cemetery authorities, crematories, cremated remains disposers, embalmers, funeral establishments, and funeral directors.

(5) The Professional Fiduciaries Bureau shall disclose information on its licensees.

(6) The Contractors' State License Board shall disclose information on its licensees and registrants in accordance with Chapter 9 (commencing with Section 7000) of Division 3. In addition to information related to licenses as specified in subdivision (a), the board shall also disclose information provided to the board by the Labor Commissioner pursuant to Section 98.9 of the Labor Code.

(7) The Bureau for Private Postsecondary Education shall disclose information on private postsecondary institutions under its jurisdiction, including disclosure of notices to comply issued pursuant to Section 94935 of the Education Code.

(8) The California Board of Accountancy shall disclose information on its licensees and registrants.

(9) The California Architects Board shall disclose information on its licensees, including architects and landscape architects.

(10) The State Athletic Commission shall disclose information on its licensees and registrants.

(11) The State Board of Barbering and Cosmetology shall disclose information on its licensees.

(12) The State Board of Guide Dogs for the Blind shall disclose information on its licensees and registrants.

(13) The Acupuncture Board shall disclose information on its licensees.

(14) The Board of Behavioral Sciences shall disclose information on its licensees, including marriage and family therapists, licensed clinical social workers, licensed educational psychologists, and licensed professional clinical counselors.

(15) The Dental Board of California shall disclose information on its licensees.

(16) The State Board of Optometry shall disclose information regarding certificates of registration to practice optometry, statements of licensure, optometric corporation registrations, branch office licenses, and fictitious name permits of its licensees.

(17) The Board of Psychology shall disclose information on its licensees, including psychologists, psychological assistants, and registered psychologists.

(d) The State Board of Chiropractic Examiners shall disclose information on its licensees.

(e) The Structural Pest Control Board shall disclose information on its licensees, including applicators, field representatives, and operators in the areas of fumigation, general pest and wood destroying pests and organisms, and wood roof cleaning and treatment.

(f) "Internet" for the purposes of this section has the meaning set forth in paragraph (6) of subdivision (f) of Section 17538.



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**Attachment 2**

**Proposed Legislative Language**

**§5117.**

The board shall not publish on the Internet the final determination of a citation and fine of one thousand five hundred dollars (\$1,500) or less issued against a licensee pursuant to Section 125.9 for a period of time in excess of five years from the date of issuance of the citation.



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**CPC Item V.**  
November 15, 2012

**CBA Item X.A.5.**  
November 15-16, 2012

**Consideration of Options to Allow Individuals to Continue to Apply for and Obtain CPA Licensure Under Pathway 1 and Pathway 2 After the New Educational Requirements in Business and Professions Code Section 5093 Take Effect on January 1, 2014**

**Presented by:** Dominic Franzella, Licensing Chief  
**Date:** October 30, 2012

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**Purpose of the Item**

The purpose of this agenda item is to continue discussions regarding possible action to extend the deadline for CPA licensure applications under the present pathways.

**Action(s) Needed**

If the California Board of Accountancy (CBA) determines that it wants to extend the deadline for licensure applications under the present pathways, the CBA will need to direct staff to develop draft legislative language for review at the January 2013 CBA meeting.

**Background**

At the September 2012 Committee on Professional Conduct (CPC) meeting, members discussed policy related to potentially extending the licensing application deadline for individuals to continue to apply under the present pathways after January 1, 2014. During deliberations at the CPC meeting members were presented with the scenario of an individual who had already graduated from college intending to become licensed under Pathway 1, but who, based on his start date with the accounting firm, would ultimately fall two weeks short of the full two-year experience requirement.

Members directed staff to explore what options are available to address instances where applicants will fall short of meeting the present pathway requirements because of a lack of experience. Additionally, members directed staff to research how other states managed the transition to a singular pathway to licensure.

**Comments**

Presently, the experience requirement for Pathway 1 is two years of general accounting experience, while the experience requirement for Pathway 2 is one year of general accounting experience. In determining whether an applicant meets the respective experience requirement, staff calculates the requirement based on a calendar year. Therefore, if an applicant intends on applying for licensure under the present pathways prior to the sunset date of January 1, 2014, the following applies:

## Consideration of Options to Allow Individuals to Continue to Apply for and Obtain CPA Licensure Under Pathway 1 and Pathway 2 After the New Educational Requirements in Business and Professions Code Section 5093 Take Effect on January 1, 2014

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- To meet the experience requirement under Pathway 1, an applicant must have begun obtaining his/her experience on or before January 1, 2012.
- To meet the experience requirement under Pathway 2, an applicant will need to start obtaining his/her experience on or before January 1, 2013.

Over the past decade several states have transitioned to the 150 hour educational standard as outlined in the Uniform Accountancy Act. In these instances, each state handled the transition in its own way. Staff reviewed the rules and regulations of several states that have either recently or will soon be transitioning to a singular pathway for licensure. For the states that staff reviewed, all maintain a substantially equivalent designation from National Association of State Boards of Accountancy (NASBA). Specifically, staff reviewed the following nine states: Delaware, Colorado, New Hampshire, Ohio, Oregon, Pennsylvania, Vermont, Wisconsin, and Wyoming.

In the cases of Delaware, which transitioned this year to the singular pathway of licensure, as well as New Hampshire, Vermont, and Colorado, which are slated to make the transition to a singular pathway within the next two to three years, none are presently offering extensions or exceptions. Outlined below, however, are five states that did provide some type of extension or exception.

- Ohio Applicants who sat for (but not necessarily passed) the CPA Exam prior to January 1, 2000 are not required to meet the 150 hour requirement.
- Oregon Applicants who passed one section of the CPA Exam prior to January 1, 2000 or who sat for (but not necessarily passed) at least two sections of the CPA Exam each year since January 1, 2000 are not required to meet the 150 hour requirement.
- Pennsylvania Applicants who passed at least one part of the CPA Exam prior to December 31, 2011 are not required to meet the 150 hour requirement.
- Wisconsin Applicants who graduated prior to January 1, 2001 are not required to meet the 150 hour requirement.
- Wyoming Applicants who passed the CPA Exam prior to January 1, 2012 are not required to meet the 150 hour requirement.

As reported on at the September meeting, staff reached out to the NASBA to gauge what impact extending the deadline to apply for licensure under the present pathways may have on California's substantially equivalent designation. Although NASBA may not be able to provide a definitive answer on what impact extending the deadline may have without a specific proposal, looking to how NASBA has addressed similar situations in other states may provide a good indicator of NASBA's position related to states that continued to license under previous requirements while transiting to a singular pathway. If the CBA decided on some type of continuation, staff will reach out

## **Consideration of Options to Allow Individuals to Continue to Apply for and Obtain CPA Licensure Under Pathway 1 and Pathway 2 After the New Educational Requirements in Business and Professions Code Section 5093 Take Effect on January 1, 2014**

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to NASBA to determine what impact, if any, it may have on California's substantially equivalent designation.

Per members' request, below are two staff-developed options available to address instances where applicants will fall short of meeting the present pathway requirements because of a lack of experience (Options 1 and 2). Additionally, as a result of the research members' requested related to how other states handled the transition to a singular pathway for licensure, staff has also provided an option (Option 3) for possibly extending the deadline to apply for licensure that goes beyond just making exceptions because of a lack of experience.

### Option 1 – Establishing a Grace Period Related to Completing Experience Requirement

The CBA could seek to mitigate the effects for those that may fall short only a couple of weeks or a month by establishing a 30- to 60-day grace period to complete any remaining few weeks of experience required to apply under the present pathways. This would provide applicants who truly "just missed" the experience requirement by a few weeks with a concise period of time to obtain the necessary experience, such as the individual discussed at the September CPC meeting. That said, as members consider this option, regardless of how long of a grace period the CBA sought to provide, there will always be applicants who fall short of the experience requirement by a few days or weeks when the grace period ends.

### Option 2 – Redefining the Experience Requirement on a Limited Basis

Another option the CBA could consider for a select group, specifically those applying for licensure under the present pathways, is modifying the experience calculation for a specified period of time. As noted earlier, staff presently calculate fulltime experience strictly by the number of calendar months worked. So for example, if an individual began work on January 1, 2012, in order to satisfy the two-year general experience requirement in Pathway 1, he/she would need to have worked fulltime until December 31, 2013. This calculation does not take into account the amount of hours, including overtime hours, the individual worked.

Under this option, rather than just relying solely on a calendar-based approach to calculating experience, the CBA could combine a calendar-based approach with defining the actual minimum number of hours worked. Using 170 hours as the base for a fulltime work month (which staff use when calculating part-time experience), 2,040 hours is the equivalent to one year of experience. Therefore, the CBA could define one year of general accounting experience as a minimum of 2,040 hours and at least six to nine months of physical employment, while for the two-year general accounting experience requirement the CBA could define it as 4,080 hours and 12-18 months. Under Option 2, the select group would only pertain to those applying for license under the present pathways and would not

## **Consideration of Options to Allow Individuals to Continue to Apply for and Obtain CPA Licensure Under Pathway 1 and Pathway 2 After the New Educational Requirements in Business and Professions Code Section 5093 Take Effect on January 1, 2014**

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be something that would extend under the new licensure requirements taking effect January 1, 2014.

Members may wish to consider the following when evaluating this option: (1) this would allow applicants to take advantage of the overtime hours that are presently not taken into consideration; (2) it would continue to allow for the present pathways to sunset as planned on January 1, 2014; (3) by not requiring a full calendar year of experience, applicants may lose the breadth of experience that the present process provides; and (4) staff were unable to identify any states that use a method for calculating experience such as the one being offered in this option.

### **Option 3 – Extending the Option to Apply Under the Present Pathways Based on When an Individual Passed the Uniform CPA Exam (CPA Exam)**

A third option the CBA may wish to consider is to extend the pathways for applicants who pass some number of sections of the CPA Exam. This would be similar to the method used to phase out Pathway 0 as the CBA moved to the present pathways, as well as the approach employed by other states during their transition periods.

In considering this option, staff would recommend that the CBA require that an individual has passed all four parts of the CPA Exam on or before December 31, 2013, while only providing the ability to continue to apply under this option for a two-year period. Staff believe this would help to ensure that students intending to apply under Pathway 1 – the two-year experience requirement – are reasonably afforded sufficient time to obtain the necessary experience. The reason staff recommend that this extension be limited to applicants who have fully passed the CPA Exam is that the CBA can be certain these applicants are on the verge of licensure, whereas an applicant who has only passed a portion of the CPA Exam may still be years away from licensing.

Given the timing elements related to effectively implementing any of these options, even if the CBA could accomplish one or all of these policies via regulation, staff believes that sponsoring legislation is a more prudent approach. Therefore, if the CBA decides to select one of the aforementioned options, staff will provide legislative language at the January 2013 meeting for members' consideration. Additionally, staff will reach back out to NASBA to provide the specific scenario the CBA intends on employing and to get further guidance on what impact, if any, that it may have on California's substantially equivalent designation.

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

None.

### **Recommendation**

None.



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**LC Item II.**  
November 15, 2012

**CBA Item X.B.2 .**  
November 15-16, 2012

**Consideration of Sponsoring Legislation to Amend Business and Professions Code Section 5093 to Allow in Limited Circumstances the Ability for Candidates to Qualify for the Uniform CPA Examination Prior to the Conferral of a Baccalaureate Degree**

**Presented by:** Matthew Stanley, Regulation Analyst

**Date:** October 16, 2012

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**Purpose of the Item**

The purpose of this agenda item is to present the California Board of Accountancy (CBA) with legislative language to allow candidates to qualify for the Uniform Certified Public Accountant Examination (CPA Exam) prior to the conferral of a baccalaureate degree.

**Action(s) Needed**

The CBA will be asked to decide whether to sponsor the proposed language as legislation in the 2013 legislative year.

**Background**

In September of 2012, the CBA adopted a policy to allow a candidate for the CPA Exam, in limited circumstances, to qualify to test prior to the conferral of a baccalaureate degree. Those limited circumstances were as follows:

- The applicant must have his/her respective college or university submit a letter along with the transcript attesting to the fact that the individual completed all the requirements for a baccalaureate degree;
- The letter must include the date the individual met all of the baccalaureate degree requirements; and,
- The letter must include a statement indicating that the sole reason the baccalaureate degree has not been conferred is because the individual is enrolled in a five-year master's program.

**Comments**

Because the current requirement in Business and Professions Code Section 5093 states that a candidate for the CPA Exam must present evidence that a baccalaureate degree has been completed and conferred, a change in the law is necessary to implement the CBA's adopted policy. Staff have prepared legislative language (**Attachment 1**) that would codify the policy adopted by the CBA at its September 2012 meeting. The proposal also makes some technical and clarifying changes to the existing language.

**Consideration of Sponsoring Legislation to Amend Business and Professions Code Section 5093 to Allow in Limited Circumstances the Ability for Candidates to Qualify for the Uniform CPA Examination Prior to the Conferral of a Baccalaureate Degree**

Page 2 of 2

If the CBA approves of the proposed language, staff will begin the process to have the language drafted by Legislative Counsel. Prior to seeking an author to carry the proposed legislation, staff will request that the language be included in the 2013 omnibus bill. If that request is denied, staff will then seek an author to carry the legislation for the CBA.

**Fiscal/Economic Impact Considerations**

There should be no fiscal impact beyond notifying staff of the new method for accepting CPA Exam candidates which could be accomplished through an email, and conducting outreach to candidates to let them know of the new method of qualifying for the CPA Exam.

**Recommendation**

Staff recommend that the CBA approve the proposed language and direct staff to pursue it in the 2013 legislative year.

**Attachment**

Proposed Legislative Language



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## Attachment 1

### Proposed Legislative Language

#### **5093. Conditions to qualify for license under this section**

(a) To qualify for the certified public accountant license, an applicant who is applying under this section shall meet the ~~education~~, examination, education, and experience requirements specified in subdivisions (b), (c), and (d), or otherwise prescribed pursuant to this article. The board may adopt regulations as necessary to implement this section.

(b) (1) An applicant for the certified public accountant license shall pass an examination prescribed by the board.

(2) (A) An applicant for admission to the certified public accountant examination under the provisions of this section shall present satisfactory evidence that the applicant has completed a baccalaureate or higher degree conferred by a degree-granting university, college, or other institution of learning accredited by a regional or national accrediting agency included in a list of these agencies published by the United States Secretary of Education under the requirements of the Higher Education Act of 1965 as amended (20 U.S.C. Sec. 1001 et seq.), or meeting, at a minimum, the standards described in subdivision (c) of Section 5094.

(B) An applicant enrolled in a program at an institution as described in subparagraph (A) that grants concurrent conferral of a master's and baccalaureate degrees may satisfy subparagraph (A) by having a letter from such an institution signed by the Office Registrar or its equivalent, mailed directly to the board along with the applicant's transcripts or an evaluation of transcripts pursuant to Section 5094(c). The letter shall include all of the following:

(i) A statement that the applicant is enrolled and in good standing in a program that will result in the concurrent conferral of a master's and baccalaureate degrees,

(ii) A statement that the applicant has completed all requirements, including general education and elective requirements, for a baccalaureate degree and the only reason the college or university has yet to confer the degree is because the applicant is enrolled in a program that confers a master's and baccalaureate degree concurrently, and

(iii) The date on which the applicant met all of the college or university's requirements for conferral of a baccalaureate degree.

(3) The total educational program shall include a minimum of 24 semester units in accounting subjects and 24 semester units in business-related subjects. This evidence shall be provided at the time of application for admission to the examination, except that

an applicant who applied, qualified, and sat for at least two subjects of the examination for the certified public accountant license before May 15, 2002, may provide this evidence at the time of application for licensure.

~~(2)~~ (c) An applicant for issuance of the certified public accountant license under the provisions of this section shall present satisfactory evidence that the applicant has completed at least 150 semester units of college education including a baccalaureate or higher degree conferred by a college or university, meeting, at a minimum, the standards described in Section 5094, the total educational program to include a minimum of 24 semester units in accounting subjects, 24 semester units in business-related subjects, and, after December 31, 2013, shall also include a minimum of 10 units of ethics study consistent with the requirements set forth in Section 5094.3 and 20 units of accounting study consistent with the regulations promulgated under subdivision (c) of Section 5094.6. This evidence shall be presented at the time of application for the certified public accountant license. Nothing herein shall be deemed inconsistent with Section 5094 or 5094.6. Nothing herein shall be construed to be inconsistent with prevailing academic practice regarding the completion of units.

~~(c) An applicant for the certified public accountant license shall pass an examination prescribed by the board.~~

(d) The applicant shall show, to the satisfaction of the board, that the applicant has had one year of qualifying experience. This experience may include providing any type of service or advice involving the use of accounting, attest, compilation, management advisory, financial advisory, tax, or consulting skills. To be qualifying under this section, experience shall have been performed in accordance with applicable professional standards. Experience in public accounting shall be completed under the supervision or in the employ of a person licensed or otherwise having comparable authority under the laws of any state or country to engage in the practice of public accountancy. Experience in private or governmental accounting or auditing shall be completed under the supervision of an individual licensed by a state to engage in the practice of public accountancy.

(e) Applicants completing education at a college or university located outside of this state, meeting, at a minimum, the standards described in Section 5094, shall be deemed to meet the educational requirements of this section if the board determines that the education is substantially equivalent to the standards of education specified under this chapter.



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**CBA Item XI.A.**  
 November 15-16, 2012

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

**DRAFT**

**MINUTES OF THE**  
**SEPTEMBER 20-21, 2012**  
**CBA MEETING**

Wyndham Irvine  
 17941 Von Karman Ave.  
 Irvine, CA 92614

TELECONFERENCE LOCATION:  
 Bureau of Automotive Repair (Field Office)  
 1361 Winchester Blvd. Ste. 206  
 San Jose, CA 95117

Roll Call and Call to Order.

CBA President Marshal Oldman called the meeting to order at 12:30 p.m. on Thursday, September 20, 2012 at the Wyndham Irvine. The meeting recessed at 3:59 p.m. President Oldman reconvened the meeting at 9:03 a.m. on September 21, 2012 and the meeting adjourned at 10:01 a.m.

CBA Members

September 20, 2012

Marshal Oldman, President	12:30 p.m. to 3:59 p.m.
Leslie LaManna, Vice President	12:30 p.m. to 3:59 p.m.
Michael Savoy, Secretary-Treasurer	12:30 p.m. to 3:59 p.m.
Sarah (Sally) Anderson	12:30 p.m. to 3:59 p.m.
Diana Bell	Absent
Alicia Berhow	12:30 p.m. to 3:59 p.m.
Michelle Brough	12:30 p.m. to
Donald Driftmier	12:30 p.m. to 3:59 p.m.
Herschel Elkins	Absent
Laurence (Larry) Kaplan	12:30 p.m. to 3:59 p.m.
Louise Kirkbride*	12:30 p.m. to 3:59 p.m.
Kitak (K.T.) Leung	12:30 a.m. to 3:59 p.m.
Manuel Ramirez	12:30 p.m. to 3:59 p.m.
David Swartz	12:30 p.m. to 3:59 p.m.

CBA Members

September 21, 2012

Marshal Oldman, President	9:01 a.m. to 10:01 a.m.
Leslie LaManna, Vice President	9:01 a.m. to 10:01 a.m.
Michael Savoy, Secretary-Treasurer	9:01 a.m. to 10:01 a.m.
Sarah (Sally) Anderson	9:01 a.m. to 10:01 a.m.
Diana Bell	Absent
Alicia Berhow	9:01 a.m. to 10:01 a.m.
Michelle Brough	Absent
Donald Driftnier	9:01 a.m. to 10:01 a.m.
Herschel Elkins	Absent
Laurence (Larry) Kaplan	9:01 a.m. to 10:01 a.m.
Louise Kirkbride	Absent
Kitak (K.T.) Leung	9:53 a.m. to 10:01 a.m.
Manuel Ramirez	9:01 a.m. to 10:01 a.m.
David Swartz	9:01 a.m. to 10:01 a.m.

\* Ms. Kirkbride attended the CBA meeting from a teleconference location.

Staff and Legal Counsel

Patti Bowers, Executive Officer  
Rich Andres, Information Technology Staff  
Paul Fisher, Supervising Investigative CPA  
Dominic Franzella, Chief, Licensing Division  
Rafael Ixta, Chief, Enforcement Division  
Nick Ng, Manager, Administration Unit  
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, Legislation/Regulation Analyst

Committee Chairs and Members

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

Other Participants

Kevin Berggren, Center for Public Interest Law (CPIL)  
Dan Dustin, National Association of State Board of Accountancy (NASBA)  
Jason Fox, California Society of CPAs (CalCPA)  
Ed Howard, CPIL

Joe Petito, The Accountants Coalition  
Pilar Onate-Quintana, KP Public Affairs  
Jonathan Ross, KP Public Affairs  
Hal Schultz, CalCPA  
Jeannie Tindel, CalCPA  
Amy Yerkey, Administrative Law Judge (ALJ), Office of Administrative Hearings

I. Report of the President

Mr. Oldman announced that Senate Bill (SB) 1405 regarding mobility and Assembly Bill (AB) 1904 regarding military spouses have been signed by the Governor.

**At this time, CBA members heard Agenda Item I.B.**

A. Discussion on the Role of the Qualifications Committee (QC).

Mr. Hinojoso provided an overview of this item. Mr. Hinojoso stated that the QC's role is to serve as an advisory committee to the CBA, assisting in its licensure activities by conducting work paper reviews and interviewing applicants to evaluate if their experience satisfies the requirements for CPA licensure. Mr. Hinojoso stated that the primary function of the QC is to perform personal appearances and Section 69 reviews. Mr. Hinojoso noted that the QC is also occasionally called upon to mediate applicant/supervisor disputes regarding work experience. In these cases, the QC will conduct its work paper review and conducts interviews to evaluate whether the work experience satisfies the requirements for CPA licensure. Mr. Hinojoso further stated that as part of its advisory role, the QC also conducts an annual internal audit, usually every July, on a percentage of all approved applications.

Ms. Anderson inquired if members that makeup the QC presently have adequate experience to review all candidates and types of work that they perform.

Mr. Hinojoso stated that there is a significant and sufficient amount of experience in all areas.

Ms. Anderson suggested that for future re-appointments a matrix be developed to identify the skill base of the current QC members and candidates for appointment/re-appointment.

B. Announcement Regarding Annual Officer Elections.

Mr. Oldman announced that Annual Officer Elections will be held at the

November CBA meeting.

C. Announcement of CBA Leadership Award of Excellence.

Mr. Oldman announced that the recipients of this year's CBA Leadership Award of Excellence are Cindi Fuller, Renewal and Continuing Competency Unit Coordinator and Suzanne Gracia, Examination Unit Coordinator.

II. Report of the Vice President.

A. Recommendations for Appointment(s) to the Enforcement Advisory Committee (EAC).

**It was moved by Ms. LaManna, seconded by Mr. Ramirez and unanimously carried by those present to reappoint EAC members Joseph Buniva, Gary Caine, Robert A. Lee, Seid Sadat, and Michael Schwartz.**

B. Recommendations for Appointment(s) to the Qualifications Committee (QC).

**It was moved by Ms. LaManna, seconded by Mr. Driftmier and unanimously carried by those present to reappoint QC members Carlos Aguila, Michael Haas, Charles Hester, Casandra Moore-Hudnall, and James Woyce.**

C. Recommendations for Appointments/Reappointments to the Peer Review Oversight Committee (PROC).

There was no report for this item.

III. Report of the Secretary/Treasurer

A. Discussion of Governor's Budget.

There was no report on this item.

B. Fiscal Year 2011-2012 Year End Financial Report.

Mr. Savoy reported the revenue from license renewals has decreased due to the reduction in license renewal fees.

C. Report of the Budget Taskforce – Licensing Fee Analyses and Discussion of Reserve.

Mr. Ng reported that the Budget Taskforce, comprised of Mr. Savoy and Mr. Ramirez, worked with staff to analyze several scenarios which would reduce the amount of funds in reserve. The Taskforce determined that further steps beyond a 40 percent reduction in license renewal fees may be necessary to lower reserve levels. Mr. Ng stated that presently the CBA has approximately \$14 million in reserve. Mr. Ng further stated that there is no statutory requirement for the CBA to have a specific amount of funds in reserves. Mr. Ng stated that the Taskforce suggested that a four-year plan be developed, to reduce the reserve to a three-month level. Based on current projections, reserves at a three-month level would not adversely impact operations and would still allow enough for funding litigation and enforcement costs for 18 months.

Mr. Ng stated that staff has provided several scenarios (Attachment \_\_\_) to bring the reserve to the level suggested by the Taskforce. Mr. Ng further noted that any fee reductions will be a regulatory change and require approval by the Department of Consumer Affairs, Department of Finance and the Office of Administrative Law.

Mr. Ramirez commented that he prefers Scenario 4, which targets 60 percent reduction in license renewal fees. Mr. Ramirez stated that this scenario would allow revenues to match expenses without creating the possibility of a deficit. Mr. Ramirez suggested that the CBA be more proactive in trying to match revenue with expenses as closely as possible and licensees should pay a fair fee.

**It was moved by Mr. Ramirez, and seconded by Ms. Brough that Scenario 4, which reduces license renewal fees 60 percent, be chosen to reduce the amount of funds in reserve. (This motion was later amended).**

Mr. Kaplan stated that he prefers Scenario 3, which included reductions in examination and licensing application fees because it benefits individuals just starting a career.

Mr. Ramirez suggested combining Scenario 3 and 4 to achieve \$1.8 million in reserve.

Mr. Swartz commented that \$1.8 million is a good amount to have in reserve, and that a hybrid between Scenario 3 and 4 seemed appropriate. Mr. Swartz agreed that fees for licensing applications should be reduced.

**It was moved by Mr. Ramirez, and seconded by Ms. Anderson to use Scenario 3 and to adjust the fee levels for all application fees to a level which would reduce the reserve to \$1.8 million. (This motion**

**was later amended.)**

Mr. Ramirez commented that the CBA has not considered that it has 100 percent expenditures. Mr. Ramirez stated that furloughs create \$2 million in reserves, and is not considered in the scenarios provided. This could lead to increasing the reserve by \$1 million to \$3 million per year over a four-year period.

Mr. Ramirez inquired if the reduction being considered should be for a two-year period of time, rather than a four-year period of time.

Mr. Oldman stated that the CBA needs more time to adjust to factors such as furloughs, revenue received, state of the economy and that when considering changes in revenue, it should be done cautiously.

Mr. Savoy stated that two years may be too short of a window to reduce the reserve.

Mr. Ramirez commented that a four-year budgetary adjustment is too long and that two years is a better time period in order to serve our licensees.

Mr. Ramirez then amended his earlier motion. **It was moved by Mr. Ramirez, seconded by Ms. Brough and unanimously carried by those present to direct staff to bring back an appropriate fee reduction in Scenario 3 to get the level in reserve to \$1.8 million in two years, understanding that a fee reduction will not take effect until Fiscal Year 2014-15.**

#### IV. Report of the Executive Officer (EO)

##### A. Update on Staffing.

Ms. Bowers reported that the CBA is actively recruiting for four vacancies.

##### B. Update on CBA 2010-2012 Communications and Outreach Plan (Written Report Only).

##### C. CBA 2011-2012 Annual Report.

Ms. Pearce provided an overview of this item. Ms. Pearce stated that the report highlights various accomplishments in CBA programs on an annual basis.

Ms. Anderson commended staff for a great job on the CBA 2011-2012 Annual Report.

D. Report on Customer Satisfaction with CBA Services.

Ms. Pearce provided an overview of this item. Ms. Pearce stated that the CBA Customer Satisfaction Survey is available on the CBA website. According to this survey, 70 percent are satisfied or very satisfied with the customer service received at the CBA. Ms. Pearce stated that the CBA is focused with providing excellent customer service and will continue to set goals to increase that percentage.

E. Update on Bills on Which the CBA Has Taken A Position (AB 1345, AB 1409, AB 1588, AB 1904, AB 2570, SB 103, SB 1099, SB 1327, SB 1405 and SB 1576) and Report on Newly Amended Bills Identified During the Final Week of Session (AB 1489, SB 71, and SB 1025).

Mr. Stanley provided an overview of this item. Mr. Stanley stated that the Legislature ended business on August 31, 2012 and all bills are currently on the Governor's desk for signature or veto. Bills that have been signed include AB 1345, AB 1904, SB 1099. Mr. Stanley stated that for those bills yet to be signed by the Governor, prior to passing out of the Legislature, some changes were made to a few bills which the CBA has taken a position. Mr. Stanley noted that staff are not recommending changes in position as none of the changes to the bills were significant to warrant doing so.

Regarding AB 1345, Mr. Stanley stated that a letter was sent to the Governor stating that the CBA did not support AB 1345 bill.

Mr. Stanley noted that SB 71 is a budget bill to eliminate extraneous committees in government including the CBA's Ethics Curriculum Committee.

Mr. Stanley stated that AB 1588 would exempt active-duty military licensees in DCA from license renewal fees, continuing education, and other renewal requirements. Mr. Stanley further stated the CBA will be exempt from AB 1588 because a similar program, SB 1405, will be implemented; however, there is a one-year time difference between the implementation date of AB 1588 and SB 1405. Since AB 1588 becomes effective January 1, 2013 and SB 1405 does not become effective until January 1, 2014, AB 1588 will be applicable to the CBA for one year.

Mr. Stanley stated that SB 1025 was amended at the end of session to apply to the CBA, and the CBA has not previously taken a position on this bill. SB 1025 requires all regulatory entities to review its regulations and to change any regulations that are duplicative. Mr. Stanley stated that the CBA already did this at the beginning of 2012.

Mr. Stanley stated that SB 1405 was amended to include everything the CBA requested at its July 2012 meeting. These changes included; clarifying disqualifying conditions, additional actions taken by other boards of accountancy that would necessitate a cease practice in California, and a review of other states' websites is on a biennial basis.

V. Report of the Licensing Chief.

A. Report on Licensing Division.

Mr. Franzella provided an overview of this item (See Attachment\_\_\_). Mr. Franzella reported that the processing time for first time examination applicants is at 32 days, which is a slightly longer processing time than usual. He noted that the increase in processing time is due to a significant increase in the volume of applications received. Mr. Franzella also stated that the Examination Unit is recruiting for a vacant position.

B. Licensing Educational Changes Taskforce – Project Plan for Implementation of the New Educational Requirements for CPA Licensure Set to Take Effect January 1, 2014.

Mr. Franzella stated that an Internal Taskforce comprised of Examination and Initial Licensing unit staff has been established to facilitate a smooth transition to the new educational requirements for CPA licensure. Mr. Franzella further stated that the Taskforce has placed a heavy emphasis on outreach.

Mr. Ramirez suggested that information regarding the new educational requirements for CPA licensure be sent to accounting societies and Beta Alpha Si. Mr. Ramirez further suggested that a letter should be sent to the accounting society President at each campus to ensure that information about the new educational requirements is shared with accounting students.

VI. Report of the Enforcement Chief.

A. Enforcement Division Report.

Mr. Ixta provided an overview of this item (See Attachment\_\_\_).

Mr. Ixta stated that a new format of the Enforcement Division Report is being presented to give CBA members a more comprehensive overview of the activities in the Enforcement Division and to provide comparative information over the past two fiscal years.

Mr. Driftmier inquired if there is a trend in what types of complaints are

being filed.

Mr. Ixta stated that the most common reason for a complaint to be filed is peer review. Mr. Ixta further stated that in order to issue a citation for peer review, a complaint must be opened. Mr. Ixta stated that almost 1,000 complaints have resulted from individuals failing to file a peer review reporting form.

Mr. Ramirez suggested including in the Enforcement Division Report the percentage of claims from the PCAOB that are investigated.

Mr. Ramirez suggested that regarding peer review, a communication should be available to licensees possibly on the CBA website, to articulate the common reason for a "fail" peer review report.

Mr. Ixta stated that at the CBA's request, staff has reviewed 373 peer review reporting forms to verify accuracy. Of the 373 reports, 91 are being referred for further investigation.

Mr. Ixta provided CBA members with the status of enforcement cases that are pending at the Attorney General's office that are more than 24 months.

Mr. Ixta stated that aggressive action plans have been developed to prioritize all technical over 365 days old and non-technical cases over 100 days old.

## VII. Open Session.

### A. Kwang-Ho Lee – Petition for Reinstatement of Revoked CPA Certificate.

Mr. Kwang-Ho Lee appeared before CBA members to petition for the reinstatement of his revoked certificate.

ALJ Amy Yerkey and the CBA members heard the petition and convened into executive closed session to deliberate the matter. ALJ Yerkey will prepare the decision.

### B. Gladstein CPA – Petition for Termination of Probation.

Mr. Gladstein appeared before CBA members to petition for termination of probation.

Administrative Law Judge Amy Yerkey and the CBA members heard the petition and convened into executive closed session to deliberate

the matter. ALJ Yerkey will prepare the decision.

C. Stuart Gladstein – Petition for Reduction of Penalty.

Mr. Gladstein appeared before the CBA members to petition for reduction of penalty.

ALJ Amy Yerkey and the CBA members heard the petition and convened into executive closed session to deliberate the matter. ALJ Yerkey will prepare the decision.

VIII. Closed Session. Pursuant to Government Code Section 11126 (c)(3), the CBA Convened into Closed Session to Deliberate on Disciplinary Matters (stipulations, Default Decisions, Proposed Decisions, Petitions for Termination of Probation, Petitions for Reduction of Penalty and Petitions for Reinstatement).

IX. Regulations.

A. Regulation Hearing Regarding Title 16, California Code of Regulations (CCR) Sections 12, 12.5, 37, 80, 80.1, 80.2, 81, 87, 87.1, 87.7, 87.8, 87.9, 88, 88.1, 88.2 and 89 – Continuing Education.

Mr. Stanley read the following statement regarding the regulation hearing into the record.

“This is a public hearing on proposed regulations of the California Board of Accountancy, Department of Consumer Affairs, to consider adopting regulations for a Retired Status License. On behalf of the Board and its staff, I'd like to welcome you. My name is Matthew Stanley and I serve as the Board's Regulation Analyst. I will preside over this hearing on behalf of the Board and the Department.”

“The California Board of Accountancy is contemplating this action pursuant to the authority vested by Sections of the Business and Professions Code, authorizing the Board to amend, adopt, or repeal regulations for the administration and enforcement of the Chapter 1 of Division 3 of the Business and Professions Code.”

“For the record, the date today is September 21, 2012 and the time is approximately 9:02 a.m. Our hearing is being held at the Wyndham Irvine at 17941 Von Karman Ave. in Irvine, California.”

“The notice for the hearing on these proposed regulations was published by the Office of Administrative Law. Interested parties on our mailing list have been notified of today's hearing. The language of the proposed regulations

has been mailed to those who requested it and has been available on the board's Web site and upon request by other members of the public. Copies of the proposed regulations are available at the back of the room."

"If the Board has received written comments on the proposal, those comments will be entered into the official record of the proceedings. The Board shall be provided and shall consider all written comments received up until 5:00 p.m., September 17, 2012. Anyone who wishes to comment in writing but does not want to speak today is welcome to do so. If we receive written comments on the proposed regulations, they will be acknowledged and entered into the official record of the rulemaking proceedings."

"Those persons interested in testifying today should identify themselves and the section or subsection of the proposed regulations that they wish to address. Individuals will be called to testify in the order determined by recognition from the hearing officer. If you have a comment about the proposed regulation or any part or specific subsection of the proposal, please step up to the microphone and give your name, spelling your last name and tell us what organization you represent, if any. Speak loudly enough for your comments to be heard and recorded. Remember, it's not necessary to repeat the testimony of previous commentators. It is sufficient if you simply say that you agree with what a previous speaker has stated. Written testimony can be summarized but should not be read. When you are testifying, please identify the particular regulation proposal you are addressing. Please comment only on provisions of the article under discussion. "

"If you have a question about a proposed regulation, please re-phrase your question as a comment. For example, instead of asking what a particular subdivision means, you should state that the language is unclear and why. This will give the Board an opportunity to address your comments directly when the Board makes its final determination of its response to your comments."

"Please keep in mind that this is a public forum to receive comments on the proposed regulations from interested parties. It is not intended to be a forum for debate or defense of the regulations. After all witnesses have testified, the testimony phase of the hearing will be closed."

"Please raise your hand if you wish to comment on the proposed regulations. Is there anyone else who would like to comment on the proposed regulations?"

"Thank you for participating in this regulation hearing. It is important that public comment on such policy issues be heard prior to the Board taking

action on the proposal. The Board shall take into consideration all comments timely received. Upon careful consideration of all comments, the Board may take action to adopt the proposed text, or it may direct staff to modify the proposed text and make the text available for additional public comment.”

No public comments were received.

Mr. Stanley closed the regulation hearing at 9:07 a.m.

- B. Discussion and Possible Action to Adopt or Amend Proposed Text at Title 16, California Code of Regulations (CCR) Sections 12, 12.5, 37, 80, 80.1, 80.2, 81, 87, 87.1, 87.7, 87.8, 87.9, 88, 88.1, 88.2 and 89 – Continuing Education (CE).

Mr. Stanley presented a summary of the public comments received on the proposed regulations.

Mr. Stanley stated that a public comment was received regarding Section 88.2 (c)(1)(B), stating that the American Institute of Certified Public Accountants (AICPA) and National Association of State Boards of Accountancy (NASBA) CE standards grants 1.85 minutes of self-study credit per final exam question, but the proposed regulatory language does not allow for final exam questions to be included in the time calculation.

Mr. Stanley stated that a public comment was received stating that Section 88.2 (c)(1)(B) does not include the phrase “if one half hour credits are awarded” when discussing rounding down the time limit to the nearest half-hour for CE courses.

Mr. Stanley noted that staff recommended that the CBA reject this comment as the CBA does grant half hour credit and it would be unnecessary to make a qualifying statement in this section.

Mr. Stanley stated that a public comment was received regarding section 88.1, stating that the proposed regulatory language required CE providers to maintain records for six years, although the NASBA and AICPA CE standards require a CE provider to maintain records for five years.

**It was moved by Ms. Anderson, seconded by Mr. Swartz and unanimously carried by those present to accept this public comment.**

Mr. Stanley stated that a public comment was received regarding the proposed regulatory language, stating that the hours required for fraud CE should not be reduced to four hours.

**It was moved by Ms. Anderson, seconded by Ms. Berhow and carried by those present to reject this public comment. Ms. LaManna opposed.**

Mr. Stanley stated that a public comment was received regarding the proposed regulatory language, stating that the definition of fraud CE should be expanded to include “prevention” and “detection and reporting of fraud affecting financial statements.”

**It was moved by Ms. Anderson, seconded by Ms. Brough and unanimously carried by those present to accept this public comment.**

Mr. Stanley stated that a public comment was received regarding the proposed regulatory language, stating that a single eight-hour fraud course every four years should be allowed, as most CPAs prefer attending class in person and an eight-hour course is a better use of time.

**It was moved by Ms. Anderson, seconded by Ms. Berhow and carried by those present to reject this public comment. Mr. Ramirez abstained.**

Mr. Stanley stated that a public comment was received stating that the eight hour fraud requirement should be counted towards the 24 hours of Accounting and Auditing (A&A) requirement. Mr. Stanley stated that staff recommended rejecting this comment as the CBA has previously determined that it does not consider fraud CE to be included in the A&A CE requirement.

Mr. Stanley stated that a public comment was received regarding the proposed regulatory language, stating that Section 88.1 reduces the minimum number of required monitoring events for webcast CE from two monitoring events every half hour to three monitoring events every hour.

**It was moved by Mr. Driftmier, seconded by Mr. Ramirez and carried unanimously by those present to reject this public comment.**

**It was moved by Mr. Driftmier, seconded by Ms. Anderson and unanimously carried by those present to accept the staff recommended responses to the public comments received.**

**It was moved by Ms. Anderson, seconded by Mr. Swartz 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 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.**

VIII. Committee and Task Force Reports.

A. Committee on Professional Conduct (CPC) (Michael Savoy, Chair).

1. Report of the September 20, 2012 CPC Meeting.
2. Discussion on Policy Related to the Implementation of the New Educational Requirement for CPA Licensure Set to take Effect January 1, 2014.
  - a. Consideration of Options to Allow in Limited Circumstances the Ability for Candidates to Qualify for the Uniform CPA Examination Prior to the Conferral of a Baccalaureate Degree or Higher.

Mr. Savoy stated that staff presented a situation where, with the implementation of the new educational requirements, more schools may move towards a scenario where they confer a master's and bachelor's degree simultaneously. Mr. Savoy stated that staff outlined limited circumstances under which a student could be allowed to sit for the Uniform CPA Examination prior to the conferral of a bachelor's degree, and these are listed at the bottom of page 2 of agenda item X.A.2.a. Mr. Savoy noted that this would require a legislative change.

**It was moved by Mr. Savoy, seconded by Mr. Driftmier and unanimously carried by those present that the CBA adopt a policy to allow for a student to sit for the CPA Exam under these limited circumstances outlined in staff's recommendation prior to the conferral of a Bachelor's degree, and direct staff to prepare legislative language for consideration at the November 2012 CBA meeting.**

- b. Consideration of Options to Expand the List of Qualifying Disciplines in Business and Professions Code Section 5094.3 Related to the Ethics Study Requirement.

Mr. Savoy stated that in July 2011, the CBA approved the Ethics Curriculum Committee's (ECC) ethics study proposal. Mr. Savoy stated that part of this proposal was an option to

complete up to three units in 10 specified disciplines. Mr. Savoy noted that SB 773, which included the ECC's proposed ethics study guidelines, was later amended to remove 7 of the 10 disciplines. Mr. Savoy reported that the CPC discussed whether the CBA should pursue reinstating these disciplines since they were originally based on the ECC's recommendation. Mr. Savoy noted that at the CPC meeting, both CalCPA and CPIL commented that now would not be a good time to reopen the issue. He further stated that the CPC agreed that time should be given to analyze the impact and gather data to determine if the removed disciplines should be added into the requirements.

c. Consideration of Options to Extend the Deadline to Apply for Licensure Under the Present Pathways.

Mr. Savoy stated that the CPC discussed a possible extension of time for individuals that may not have begun their experience requirement early enough to apply for licensure under the present pathways. Mr. Savoy further stated that the CPC discussed how such an extension might affect California's substantial equivalency standing with NASBA.

Mr. Savoy noted that the CPC took no action on this item, but directed staff to look at options for what could be done to make exceptions under these circumstances including looking at how other states may have handled similar situations.

3. Discussion on Initiating a Rulemaking to Adopt Title 16. California Code of Regulations (CCR) Sections 16, 16.1, and 16.2 Regarding Military Inactive Status.

Mr. Savoy reported that staff presented regulatory language that would implement the military inactive status enacted by SB 1405. Mr. Savoy stated that the regulatory language presented included an application for military inactive status, a definition for acceptable proof of military service and discharge date, and information regarding status conversion.

**It was moved by Mr. Swartz, seconded by Mr. Ramirez and unanimously carried by those present that the CBA approve the proposed language and direct staff to initiate the rulemaking process.**

B. Strategic Planning Committee (SPC) (Manuel Ramirez, Chair).

Mr. Ramirez reported that the SPC reviewed the proposed 2013-2015

CBA Strategic Plan. Mr. Ramirez stated that the proposed 2013-2015 Strategic Plan includes an updated vision section and seven goals.

**It was moved by Mr. Ramirez, seconded by Ms. Anderson and unanimously carried by those present that the CBA adopt the proposed 2013-2015 Strategic Plan.**

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

1. There was no report for this item.
2. Approval of 2013 EAC Meeting Dates.

**It was moved by Mr. Driftmier, seconded by Ms. Anderson and unanimously carried by those present that the CBA approve the proposed 2013 EAC meeting dates.**

At this time, CBA Agenda Item I.A., Discussion on the Role of the Qualifications Committee (QC) was heard.

D. Qualifications Committee (QC).

1. Report of the August 1, 2012 QC Meeting.

Mr. Hinojosa stated that the QC met on August 1, 2012 and discussed peer training and is working towards finishing a peer training program.

Mr. Hinojosa stated that two personal appearances and two Section 69 reviews were deferred.

E. Peer Review Oversight Committee (PROC)

1. Report of the August 24, 2012 PROC Meeting.

Ms. Corrigan provided an overview of this item. Ms. Corrigan stated that the PROC discussed participation at the July 24, 2012 CalCPA report acceptance body meeting and the AICPA board meeting. Ms. Corrigan stated that the PROC clarified duties and discussed that the CBA sets policies and the CBA will direct the PROC as a committee to research items. Ms. Corrigan further stated that the PROC discussed the format for the 2012 Annual Report and the report will be provided to the CBA in March. Ms. Corrigan stated that the PROC approved and signed a letter to Janice Grey, Chair of the Compliance Assurance Committee of NASBA. Ms. Corrigan further stated that the letter to Ms. Grey is seeking information to determine what level of PROC oversight over the National Peer Review Committee (NPRC) is

appropriate. Ms. Corrigan stated that the PROC determined that it will now meet four times per year.

2. Approval of 2013 PROC Meeting Dates.

**It was moved by Mr. Ramirez, seconded by Mr. Swartz and unanimously carried by those present to approve the 2013 PROC meeting dates.**

IX. Acceptance of Minutes.

A. Draft Minutes of the July 26, 2012 CBA Meeting.

**It was moved by Mr. Ramirez, seconded by Mr. Swartz and unanimously carried by those present to accept agenda item IX.A. with the revision to page 19452 of the July 26, 2012 CBA minutes.**

B. Draft Minutes of the July 25, 2012 CBA Strategic Planning Workshop.

**It was moved by Ms. Anderson, seconded by Ms. LaManna and unanimously carried by those present to accept the minutes of the July 25, 2012 CBA Strategic Planning Workshop.**

C. Minutes of the May 25, 2012 CPC Meeting.

**It was moved by Ms. Anderson, seconded by Ms. Berhow and unanimously carried by those present to accept the minutes of the May 25, 2012 CPC meeting.**

D. Minutes of the March 23, 2012 SPC Meeting.

**It was moved by Mr. Ramirez, seconded by Ms. Berhow and unanimously carried by those present to accept the minutes of the March 23, 2012 SPC meeting.**

E. Minutes of the April 25, 2012 QC Meeting.

**It was moved by Ms. Berhow, seconded by Ms. LaManna and unanimously carried by those present to accept the minutes of the April 25, 2012 QC meeting.**

F. Minutes of the May 3, 2012 EAC Meeting.

**It was moved by Ms. Berhow, seconded by Ms. LaManna and unanimously carried by those present to accept the minutes of**

**the May 3, 2012 EAC Meeting.**

G. Minutes of the June 16, 2012 PROC Meeting.

**It was moved by Mr. Driftmier, seconded by Ms. Anderson and unanimously carried by those present to accept the minutes of the June 16, 2012 PROC meeting.**

X. 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. Introduction of NASBA representative Dan Dustin

Mr. Oldman introduced NASBA representative Dan Dustin, CPA who serves as the NASBA Vice President of State Board Relations. Mr. Dustin gave background information on himself and explained his role as an advocate for the state boards with NASBA. Mr. Dustin informed the CBA of several events that NASBA has been working on; including NASBA U, the Accountancy Licensee Database (ALD) and legislation relating to mobility.

2. NASBA Focus Questions.

**It was moved by Ms. Berhow, seconded by Mr. Ramirez and unanimously carried by those present to accept the proposed responses to the NASBA Focus Questions.**

3. Update on NASBA Committees.

a. Accountancy Licensee Database (ALD) Task Force.

There was no report for this item.

b. Board Relevance & Effectiveness Committee.

There was no report for this item.

c. Education Committee.

There was no report for this item.

d. Uniform Accountancy Act Committee (UAA).

There was no report for this item.

XI. Closing Business

A. Public Comments.\*

No public comments were received.

B. Agenda Items for Future CBA Meetings.

There was no discussion on this item.

C. Press Release Focus

Ms. Pearce stated that a press release for SB 1405 was issued on September 20, 2012. Additionally, a press release would be issued on the 2013-2015 CBA Strategic Plan and the 2011-2012 CBA Annual Report.

Adjournment.

President Oldman adjourned the meeting at 10:01 a.m. on Friday, September 21, 2012.

\_\_\_\_\_ Marshal A. Oldman, Esq., President

\_\_\_\_\_ Michael M. Savoy, CPA, Secretary-Treasurer

Kari O'Connor, Board Relations Analyst, and Patti Bowers, Executive Officer, CBA, prepared the CBA meeting minutes. If you have any questions, please call (916) 561-1718.



**DEPARTMENT OF CONSUMER AFFAIRS**  
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**CPC Item I.**

November 15, 2012

**CBA Item XI.B.**

November 15-16, 2012

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

**DRAFT**

September 20, 2012

Wyndham Irvine  
17941 Von Karman Ave.  
Irvine, CA 92614  
Telephone: (949) 863-1999  
Fax: (949) 474-7236

**CALL TO ORDER**

Michael Savoy, Chair, called the meeting of the Committee on Professional Conduct (CPC) to order at 9:31 a.m. Mr. Savoy requested that the role be called.

**Present**

Michael M. Savoy, Chair  
Sarah (Sally) Anderson  
Don Driftmier  
Louise Kirkbride  
Leslie LaManna  
David Swartz

**CBA Members Observing**

Laurence (Larry) Kaplan  
Manuel Ramirez

**CBA Staff and Legal Counsel**

Patti Bowers, Executive Officer  
Deanne Pearce, Assistant Executive Officer  
Rich Andres, Information Technology Staff  
Paul Fisher, Supervising Investigative CPA  
Dominic Franzella, Chief, Licensing Division  
Rafael Ixta, Chief, Enforcement Division  
Nick Ng, Administration Manager

Kari O'Connor, Executive Analyst  
Kristy Shellans, Senior Staff Counsel, DCA Legal Affairs  
Carl Sonne, Deputy Attorney General, Department of Justice  
Matthew Stanley, Legislation/Regulation Analyst

Other Participants

Jason Fox, California Society of CPAs (CalCPA)  
Ed Howard, Center for Public Interest Law  
Joe Petito, Accountants Coalition  
Jonathan Ross, KP Public Affairs  
Hal Schultz, CalCPA  
Jeannie Tindel, CalCPA

I. Approve Minutes of the May 25, 2012 CPC Meeting

**It was moved by Mr. Driftmier, seconded by Mr. Swartz and carried unanimously to approve the minutes of the May 25, 2012 CPC meeting.**

II. Discussion on Policy Related to the Implementation of New Educational Requirements for CPA Licensure Set to Take Effect January 1, 2014.

A. Consideration of Option to Allow in Limited Circumstances the Ability for Candidates to Qualify for the Uniform CPA Examination (CPA Exam) Prior to the Conferral of a Baccalaureate Degree or Higher.

Mr. Franzella presented an overview of this item. He identified a situation that, with the new education requirements could become more prevalent regarding colleges and universities which confer a Master and Baccalaureate degree simultaneously. Under current law which requires the conferral of a Bachelor degree in order to take the CPA Exam, students in this situation would have to wait until the Master's degree is completed to take the CPA Exam. Mr. Franzella outlined the following limited circumstances under which such a student could be allowed to sit for the CPA Exam:

- The college or university must submit a letter along with the applicant's transcript attesting to the fact that the individual completed all the requirements for a baccalaureate degree;
- The letter must include the date the individual met all of the baccalaureate degree requirements; and,
- The letter must include a statement indicating that the sole reason the baccalaureate degree has not been conferred is because the individual is enrolled in a five-year master's program.

Mr. Franzella stated that a statutory change would be needed to allow for this exception, which requires legislation.

**It was moved by Mr. Driftmier, seconded by Ms. Anderson and carried unanimously to recommend that the CBA adopt a policy to allow for a student to sit for the CPA Exam under these limited circumstances prior to the conferral of a Bachelor's degree, and direct staff to prepare legislative language for consideration at the November 2012 CBA meeting.**

B. Consideration of Options to Expand the List of Qualifying Disciplines in Business and Professions Code Section 5094.3 Related to the Ethics Study Requirement.

Mr. Franzella stated that, after the Ethics Curriculum Committee's (ECC) ethics study proposal was approved by the CBA in July 2011, it was subsequently amended into Senate Bill (SB) 773. Part of this proposal was an option to complete three units in ten specified disciplines. SB 773 was later amended to remove seven of these ten disciplines, retaining only Philosophy, Religion, and Theology.

Ms. Tindel and Mr. Howard both testified that this would not be the appropriate time to reinstate the seven other disciplines as it may cause confusion to the students taking the classes.

Mr. Driftmier indicated that it was unfortunate that not all of the expertise and work of the ECC members was incorporated into the final version of SB 773 but agreed that this is not the appropriate time to restore the elements which were removed.

The CPC agreed that time should be given to analyze the impact of this requirement and gather data to see if adding the seven disciplines back into the ethics requirements might make sense in the future.

C. Consideration of Options to Extend the Deadline to Apply for Licensure Under the Present Pathways

Mr. Franzella presented this item and indicated that with the changes to licensure requirements that will begin on January 1, 2014, applicants for licensure under Pathway 1 would have needed to begin their two years of general accounting experience on or before January 1, 2012. There is a concern that some potential applicants may not have begun their experience requirement early enough. The main concern regarding a possible extension of time for these individuals revolves around how such an extension might affect California's substantial equivalency standing with the National Association of State Boards of Accountancy.

An email was shared from an individual who had began work in mid-January 2012, who will not be able to complete the two year experience requirement for licensure under Pathway 1 prior to its sunset on January 1, 2014.

The CPC took no action on this item, but directed staff to look at options for what could be done to make exceptions under these circumstances including looking at how other states may have handled implementation issues when they transitioned to mobility.

III. Discussion on Initiating a Rulemaking to Adopt Title 16, California Code of Regulations Sections 16, 16.1, and 16.2 Regarding Military Inactive Status

Mr. Stanley presented regulatory language that would implement the military inactive status should SB 1405 be signed by the Governor. The language includes an application for the status, definition for acceptable proof of military service and discharge date, and provides for status conversion. It also specifies that upon conversion, the licensee only needs to pay the renewal fee if they apply more than 12 months prior to their next renewal date.

**It was moved by Mr. Driftmier, seconded by Ms. Anderson and carried unanimously to recommend that the CBA approve the proposed language and direct staff to initiate the rulemaking process provided SB 1405 is signed into law.**

IV. Public Comments

No Public Comments were received

V. Agenda Items for Next Meeting

No agenda items were identified.

There being no further business, the meeting was adjourned at 10:14 a.m.



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LC Item I  
November 15, 2012

CBA Item XI.C  
November 15-16, 2012

**LEGISLATIVE COMMITTEE  
MINUTES OF THE MEETING**

**DRAFT**

July 26, 2012

Tsakopoulos Library Galleria  
828 I Street  
Sacramento, CA 95814  
Telephone: (916) 264-2800  
Fax: (916) 264-2809

**CALL TO ORDER**

Sally Anderson, Chair, called the meeting of the Legislative Committee (LC) to order at 9:30 a.m. Ms. Anderson requested that the roll be called.

Present

- Sally Anderson, Chair
- Diana Bell
- Herschel Elkins
- Larry Kaplan
- Louise Kirkbride
- Manuel Ramirez
- Michael Savoy

CBA Members Observing

- Alicia Berhow
- Michelle Brough
- Don Driftmier
- Leslie LaManna
- K.T. Leung
- Marshal Oldman
- David Swartz

CBA Staff and Legal Counsel

- Patti Bowers, Executive Officer

Deanne Pearce, Assistant Executive Officer  
Rich Andres, Information Technology Staff  
Paul Fisher, Supervising Investigative CPA  
Dominic Franzella, Chief, Licensing Division  
Lauren Hersh, Information Officer  
Rafael Ixta, Chief, Enforcement Division  
Kari O'Connor, Executive Analyst  
Kristy Shellans, Senior Staff Counsel, DCA Legal Affairs  
Carl Sonne, Deputy Attorney General, Department of Justice  
Matthew Stanley, Legislation/Regulation Analyst

Other Participants

Jason Fox, California Society of CPAs (CalCPA)  
Pilar Onate-Quintana, KP Public Affairs  
Joe Petito, Accountants Coalition  
Jonathan Ross, KP Public Affairs  
Hal Schultz, CalCPA  
Jeannie Tindel, CalCPA

- I. Approve Minutes of the May 24, 2012 LC Meeting

**It was moved by Mr. Ramirez, seconded by Ms. Bell and unanimously carried by those present to approve the minutes of the May 24, 2012 LC Meeting.**

- II. Update on Bills on Which the CBA Has Taken a Position (AB 1345, AB 1409, AB 1537, AB 1588, AB 1904, AB 1914, AB 1982, AB 2022, AB 2041, AB 2570, SB 103, SB 975, SB 1099, SB 1327 and SB 1576)

Mr. Stanley presented an update on bills which the CBA has taken a position. Staff recommended maintaining current positions on AB 1409, AB 2570, SB 103, and SB 1099, because they either had not been amended or amendments that were made were minor technical amendments.

Mr. Stanley stated that AB 1537, AB 1914, AB 1982, AB 2022, AB 2041, and SB 975, have either failed or have been amended in such a way as they no longer are relevant to the CBA. Staff recommended the CBA discontinue following these bills.

**It was moved by Mr. Ramirez, seconded by Mr. Elkins and unanimously carried to recommend the CBA discontinue following AB 1537, AB 1914, AB 1982, AB 2022, AB 2041 and SB 975.**

Mr. Stanley stated that the remaining bills that the CBA had taken positions on are still relevant to the CBA and have had significant amendments to them since the May 2012 CBA meeting.

#### AB 1345 – Audit Partner Rotation

Mr. Stanley indicated that AB 1345 would require audit partner rotation. Based on recommendations made at the May 2012 CBA meeting, the CBA provided four proposed amendments to the bill. The only proposal that was accepted and amended into the bill was the one clarifying that the time frame for when audit partner rotation would begin. The remaining proposals have not yet been acted upon. Staff recommended maintaining the Support if Amended position that the CBA adopted.

Mr. Ramirez asked what the three proposed amendments that were not adopted were.

Mr. Stanley stated that the remaining proposals were requiring only the lead audit partner be subject to mandatory rotation, adding a two-year cooling off period, and including a payroll schedule to the audit requirements.

Mr. Ramirez stated concerns about the remaining amendments not being adopted and inquired about options to relay those concerns to the author and appropriations committee. Mr. Stanley recommended a letter from the Executive Officer. Mr. Ramirez suggested that the Board President or a member of the LC meet with the author.

Ms. Bowers indicated that at the last board meeting the President designated Ms. Anderson to act as a liaison on this bill with the author and perhaps another meeting is in order to discuss the remaining proposals.

Mr. Ramirez and Ms. Bell asked for clarification of the difference between what staff will send if the decision is to Support if Amended or Oppose unless Amended. Mr. Stanley stated that a Support if Amended position, where the amendments are not taken, would result in no letter of support being sent to the Governor, whereas a letter of opposition would be sent to the Governor if the position were Oppose Unless Amended.

Mr. Ramirez asked that a letter be sent to the Governor at that time stating that the CBA is not in support of the bill.

**It was moved by Mr. Ramirez, seconded by Mr. Elkins and unanimously carried to recommend the CBA maintain its position of Support if Amended on AB 1345.**

## AB 1588 – Active Duty Military Reservists

Mr. Stanley explained AB 1588 would require all boards in DCA to waive renewal fees and continuing education (CE) for active duty military reservists and California National Guard members. The author's office worked with boards that had expressed an opinion on this bill. The CBA had requested an amendment to exclude CE from the bill as it already has the authority to exempt CE for those on military duty. However, the other boards, which do not have that authority, requested that the provision remain and the amendment was not taken. The author did take several other amendments that improve the bill including adding authority for the boards to implement regulations. The amendments further clarified that licensees cannot practice if they are exempted under this law. Although the CBA proposed amendment was not taken, the bill was improved significantly and staff recommend that CBA adopt a support position on this bill.

Ms. Anderson asked if a spouse could request the exemption or could file on a spouse's behalf. Mr. Stanley confirmed that this was correct but clarified that instead of just a spouse or licensee, other interested parties, such as a son or brother, could also submit the request for the licensee as well.

**It was moved by Mr. Elkins, seconded by Ms. Bell and unanimously carried to recommend the CBA adopt a support position on AB 1588**

## AB 1904 – Spouses of military members

Mr. Stanley explained that this bill would have authorized a 180-day temporary license for any spouse or domestic partner of a member of the armed forces stationed in California. After the CBA made a request for several amendments, this bill was significantly amended to take out the temporary license provisions. The bill now states that licensing entities shall expedite the licensing process for these individuals. With the new amendments, all of the CBA's recommended amendments have been addressed, and staff recommend the CBA adopt a support position on AB 1904

**It was moved by Mr. Elkins, seconded by Ms. Bell and unanimously carried to recommend the CBA adopt a support position on AB 1904**

## SB 1327 – Governors Website to Assist with Licensing Requirements

Mr. Stanley explained this bill would require the Governor's Office to establish a website to assist with licensing requirements for individuals starting a business. It would have required all licensing entities to submit licensing information for use

on this website. The CBA previously took an oppose if not amended position on the bill requesting that professional licensing entities be exempted.

Ms. Bowers was invited to a meeting with the author's office and a member of the Governor's Office of Business and Economic Development for a presentation of the website referred to as CalGold, which is presently comprised of voluntary information. Ms. Bowers communicated the CBA's concerns, and the bill was subsequently amended so that licensing entities only will be required to provide a link to their licensing information. Requiring only the link has the potential effect of driving traffic to the CBA website. With these amendments, staff recommend the CBA adopt a support position on SB 1327 and further recommend that, regardless of the outcome of this bill, that the CBA direct staff to work with CalGold to have the CBA's information placed voluntarily on the website.

**It was moved by Mr. Elkins, seconded by Ms. Bell and carried to recommend the CBA adopt a support position on SB 1327**

SB 1576 –Omnibus Bill

Mr. Stanley explained that the omnibus bill contains many provisions applicable to the CBA and various other boards. The amendments that affect the CBA were mostly technical in nature and would complete the retired status language that had been approved by the CBA in January. Staff recommends the CBA maintain its support position.

**It was moved by Mr. Elkins, seconded by Ms. Bell and unanimously carried to recommend the CBA maintain its support position on SB 1576.**

At this time, discussion returned to AB 1345. Mr. Ramirez asked what action staff would pursue to express our disagreement to the Governor when the CBA adopts a support if amended position and the bill is not amended before it passes.

Mr. Stanley stated that, typically, no further action would be taken. He further stated that if the CBA took an Oppose Unless Amended position, and the bill is not amended, an oppose letter would be sent to the Governor before he signs the bill.

Mr. Ramirez inquired if the CBA has an opportunity to communicate to any legislative committee members the CBA's position before the next vote.

Ms. Bowers stated that the CBA can direct staff to send additional letters or make additional contact at any time on bills it believes warrant the additional communication.

**It was moved by Mr. Ramirez, seconded by Mr. Savoy and carried to direct staff to send a letter further explaining the CBA's position on AB 1345 to the Senate Appropriations Committee members, and to follow up with phone calls. Mr. Elkins and Ms. Kirkbride abstained.**

III. Consideration of Position on SB 1405: Accountancy: Military Service: Practice Privilege

Mr. Stanley explained that SB 1405 previously dealt with military inactive status provisions, and while most of those provisions are still in the bill, it was amended on June 19, 2012 to include mobility provisions as well. The amendments provide that California's current practice privilege program would become inoperative on July 1, 2013 and would be replaced with these new practice privilege provisions. These new provisions sunset on January 1, 2019 and are replaced with the current version of practice privilege. With the passage of this bill California would become the 49<sup>th</sup> of 55 jurisdictions to have mobility provisions in law.

Mr. Stanley explained the contents of the bill including the requirements for a practice privilege, enforcement provisions, and public disclosure provisions.

Mr. Elkins stated that the concept for this bill has been discussed for a number of years and that had SB 1405 been drafted the way the mobility bill was in 2008, he would vote to oppose it. This bill dramatically improves the present system.

Ms. Kirkbride asked what the chief benefits of this bill were to the consumers of California.

Ms. Stanley stated that it gives the consumer more choice. It also requires the CBA to put together a stakeholder group that will be tasked with reviewing the protections in this bill and to ensure that consumers are protected.

Ms. Tindel addressed the board on behalf of CalCPA as co-sponsors of the bill and stated that they believe the bill addresses previous CBA and staff concerns and they believe it satisfies the objective of protecting the public.

Mr. Ramirez inquired whether CPIL would object to this bill.

Ms. Tindel stated that CalCPA has been working with CPIL and no objections have been raised to this point.

Ms. Kirkbride inquired whether a memo from counsel indicated a position by DCA or by counsel personally.

Ms. Shellans stated that she works for the CBA and does not confer with DCA on her position when she writes memos to the CBA. She clarified that she had some concerns and wanted to make sure the board was aware of them. She stated that the CBA is always free to disregard any advice that counsel provides, but it is her duty to be candid and provide her concerns.

Mr. Ross commented that he felt, as co-sponsors of the bill with CalCPA, that he could fairly characterize Mr. Howard's perception of the bill as one that provides improvements and tradeoffs. The bill takes away a requirement to file a form and pay a fee and substitutes the establishment of a website that will have information that is at least equal to what is available now to consumers and the potential to provide even greater access to information.

Ms. Bowers advised the LC that she had spoken with Mr. Howard personally and can state that the communication they had was very consistent with the comments stated here and that CPIL is not opposed to the bill.

**It was moved by Mr. Elkins, seconded by Mr. Ramirez and carried to recommend the CBA adopt a support position on SB 1405. Ms. Kirkbride abstained.**

#### IV. Additional Legislation Impacting the CBA Identified by Staff After the Posting of the Meeting Notice

Mr. Stanley stated that there was no further legislation to present.

#### V. Discussion and Possible Action to Amend Business and Professions Code Section 5076 – Peer Review

Mr. Stanley presented this item and explained that current law requires licensees with certain types of practice to undergo peer review in order to renew their license. Under the way the law was written, even licensees renewing in an inactive status must complete a peer review. In March 2010, the CBA directed staff to draft regulatory language to exempt those renewing in an inactive status from peer review. However, at the July 2010 meeting, the concept of retired status was first brought forward and subsequently became law. It was decided to await the final outcome of the legislation before changing the peer review regulations. This year's SB 1576 contains the final provisions of the retired status law.

It was determined that it may be possible to renew inactive and then convert back to active shortly thereafter to avoid the peer review all together. To close this loophole, staff proposed legislative language to require peer review for active status renewals and for converting to active status. Mr. Stanley recommended that the CBA direct staff to request that this language be included in the omnibus bill, SB 1576.

**It was moved by Mr. Ramirez, seconded by Mr. Savoy and unanimously carried to recommend the CBA request that the suggested language be included in the omnibus bill.**

Mr. Ramirez asked for further clarification on the issue of actions staff takes following a Support if Amended position on a bill that is subsequently not amended. He asked if the LC or CBA should direct staff to change their standard practice.

Mr. Elkins stated that it should depend on the situation.

Ms. Bowers stated that staff is always assessing internal processes and on bills where it seems appropriate staff would certainly take steps to provide further communication. She stated she would prefer the flexibility be left in place but if the committee feels additional communication is appropriate and staff are not already taking that approach, further direction would be welcome.

#### VI. Public Comments

No public comments were received

#### VII. Agenda Items for Next Meeting

No agenda items were identified.

There being no further business, the meeting was adjourned at 10:19 a.m.



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**CBA Item XI.D.**  
November 15-16, 2012

Department of Consumer Affairs  
California Board of Accountancy

Minutes of Meeting  
August 1, 2012  
CPA Qualifications Committee

Hilton Ontario  
700 North Haven Avenue  
Ontario, CA 91764

The regularly scheduled meeting of the Certified Public Accountant Qualifications Committee (QC) of the California Board of Accountancy (CBA) was called to order at approximately 10:05 a.m. on August 1, 2012 by QC Chair, Fausto Hinojosa.

QC Members Present

Fausto Hinojosa, Chair  
Maurice Eckley, Jr., Vice-Chair  
Jenny Bolsky  
Gary Bong  
Brian Cates  
Lewis Fisher  
Charles Hester  
Alan Lee  
Kristina Mapes  
Casandra Moore Hudnall  
Robert Ruehl

Staff Present

Veronica Daniel, Licensing Manger  
Dominic Franzella, Licensing Chief  
Stephanie Hoffman, Licensing Coordinator

QC Members Absent

Carlos Aguila  
Michael Haas  
Ash Shenouda  
Jeremy Smith  
James Woyce

## **I. CHAIRPERSON'S REPORT**

- A. Approval of the April 25, 2012, QC Meeting Minutes.

**It was moved by Charles Hester, seconded by Jenny Bolsky and unanimously carried by those present to adopt the minutes of the April 25, 2012 QC Meeting.**

- B. 1. Minutes of May 24-25, 2012 CBA Meeting

Copies of the meeting minutes were provided to the QC members for reference purposes.

2. Update on the July 26, 2012 CBA Meeting

Mr. Franzella informed the Committee that 10 members of the CBA attended a strategic planning meeting on July 25, 2012, and that a three-year plan covering 2013 – 2015 will be reviewed at the September CBA meeting.

The CBA discussed a bill related to mobility that was introduced in June 2012. If approved, California would be consistent with 49 other states that have adopted mobility laws that allow for no fee, no notification, and no escape. The bill is with the Assembly Appropriations Committee.

## **II. REPORT ON ACTIVITIES IN THE INITIAL LICENSING UNIT**

The QC was provided the Initial Licensing Unit report, which included a breakdown of the number of applications received by license type, processing timeframes and the number of licenses issued under each pathway. The report also included the number of firm applications received and processing timeframes for those applications. The numbers reported were for the time period of April 2012 – June 2012.

Ms. Daniel also informed the Committee that Vicky Thornton had accepted a position with the California Horse Racing Board.

## **III. DISCUSSION RELATED TO APPEARANCES CONDUCTED IN ACCORDANCE WITH TITLE 16, CALIFORNIA CODE OF REGULATIONS, SECTIONS 12.5 AND 69**

The Committee discussed a survey related to Section 12.5 and Section 69 appearances for peer training purposes. After extensive discussion, members opted to document notes and best practices during the appearances and provide information back to CBA staff, rather than moving forward with the survey. Also, staff informed members that it will review previously deferred applications and document common reasons for deferral for peer training purposes.

## **IV. PUBLIC COMMENT**

None.

## **V. AGENDA ITEMS FOR FUTURE CPA QUALIFICATIONS COMMITTEE MEETINGS**

- Approval of August 1, 2012 QC minutes
- Who is selected to appear before the QC
- Finalization of peer-training

**VI. REVIEW FILES ON INDIVIDUAL APPLICANTS [Closed session to review and deliberate on applicant files as authorized by Government Code Section 11126(c)(2), and Business and Professions Code Sections 5022 and 5023.]**

The QC conducted its annual internal audit of one percent of randomly selected staff approved applications for licensure. A total of 3241 files were approved from July 1, 2011 through June 30, 2012. The QC reviewed 32 files and concurred with all but one of staff's approvals of the applications.

**VII. CONDUCT CLOSED HEARINGS [Closed session in accordance with Government Code Section 11126(c)(2) and (f)(3), and Business and Professions Code Section 5023 to conduct closed hearings to interview individual applicants for CPA licensure].**

C12-020 - Applicant and her employer appeared and presented work papers from her public accounting experience. Applicant was disputing the Certificate of Attest Experience, as submitted. She is currently licensed with general experience.

The work reviewed was complete and no deficiencies were noted. The employer indicated he did not believe the applicant had an understanding of concepts of the requirements of planning and conducting a financial statement audit or performing other attest work that results in an opinion on full disclosure financial statements with minimal supervision as indicated on the Certificate of Attest Experience.

Recommendation: Defer. In order to satisfy the experience requirement for authorization to sign attest reports, the applicant must obtain additional audit or audit equivalent work experience. Any new experience must be obtained under the supervision of a licensee authorized to sign attest reports on attest engagements. The experience must result in an affirmatively completed Certificate of Attest Experience documenting a minimum of 500 hours of attest experience. A determination will then be made as to whether she will be required to reappear with work papers for the QC's review.

C12-021 - Applicant appeared and presented work papers for her foreign (China) public accounting experience. She has 32.25 months, with a 12-month experience requirement.

The audit was performed under Chinese Generally Accepted Auditing Standards (GAAS) with no reference to US GAAS while the financial statements were prepared under Chinese Generally Accepted Accounting Principles (GAAP) with no reference to US GAAP.

Recommendation: Defer. In order to satisfy the experience requirement for authorization to sign attest reports, the applicant must obtain additional experience in planning and conducting a financial statement audit resulting in an opinion on full disclosure financial statements. The experience must result in an affirmatively completed Certificate of Attest Experience documenting a minimum of 500 hours of attest experience. A determination will then be made as to whether or not she will be required to reappear with work papers for the QC's review.

C12-022 - Applicant appeared and presented work papers for his government accounting experience. He has 47 months of experience, with a 12-month experience requirement.

The work reviewed was complete and no deficiencies were noted; however, applicant did not prepare full disclosure financial statements.

Recommendation: Defer. In order to satisfy the experience requirement for authorization to sign attest reports, the applicant must provide a full set of financial statements. Any new experience must be obtained under the supervision of a licensee authorized to sign reports on attest engagements and an affirmative Certificate of Attest Experience must be submitted. A determination will then be made as to whether or not he will be required to reappear with the financial statements for the QC's review.

C12-024 - Applicant and her employer appeared and presented work papers for her public accounting experience. She has 13.5 months of experience, with a 12-month experience requirement.

The work reviewed was complete and no deficiencies were noted. The employer acknowledged, however, that the Certificate of Experience was prematurely submitted and that an applicant would not have the experience necessary with the limited number of audit hours the applicant had obtained.

Recommendation: Defer. In order to satisfy the experience requirement for authorization to sign attest reports, the applicant must obtain additional audit experience and have an affirmatively completed Certificate of Attest Experience submitted. A determination will then be made as to whether or not she will be required to reappear with the work papers for the QC's review.

The firm has been placed on reappearance status.

**The following Section 69 reviews took place on June 27, 2012, and are made a part of these minutes.**

C12-015 - Applicant and his employer appeared and presented work papers for his public accounting experience. Applicant is currently licensed with general experience.

The employer's understanding of the Certificate of Attest Experience was adequate. The work performed by the applicant was reviewed and no deficiencies were noted. The work was adequate to support licensure.

Recommendation: Approve

C12-001 - Applicant and his employer appeared and presented work papers for his government accounting experience. Applicant is currently licensed with general experience.

The work reviewed was complete and no deficiencies were noted. The work was adequate to support licensure.

Recommendation: Approve.

## ADJOURNMENT

There being no further business to be conducted, the meeting was adjourned at approximately 3:30 P.M. on August 1, 2012. The next meeting of the CPA Qualifications Committee will be held on October 24, 2012.

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Fausto Hinojosa, Chair

Prepared by Stephanie Hoffman, Licensing Coordinator



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**CALIFORNIA BOARD OF ACCOUNTANCY (CBA)  
 PEER REVIEW OVERSIGHT COMMITTEE (PROC)**

**CBA Item XI.E.**  
 November 15-16, 2012

**MINUTES OF THE  
 AUGUST 24, 2012  
 PROC MEETING**

California Board of Accountancy  
 2000 Evergreen Street, Suite 250  
 Sacramento, CA 95815  
 Telephone: (916) 263-3680

<u>PROC Members:</u>	<u>August 24, 2012</u>
Nancy Corrigan, Chair	10:00 a.m. – 12:17 p.m.
Katherine Allanson	10:00 a.m. – 12:17 p.m.
Gary Bong	10:00 a.m. – 12:17 p.m.
T. Ki Lam	10:00 a.m. – 12:17 p.m.
Sherry McCoy	10:00 a.m. – 12:17 p.m.
Robert Lee	10:00 a.m. – 12:17 p.m.
Seid M. Sadat	10:00 a.m. – 12:17 p.m.

Staff:

Rafael Ixta, Chief, Enforcement Division  
 April Freeman, Peer Review Analyst

Other Participants:

Linda McCrone, California Society of Certified Public Accountants (CalCPA)  
 Jeannie Tindel, CalCPA  
 Jason Fox, CalCPA

I. Roll Call and Call to Order.

Nancy Corrigan, Chair, called the meeting of the Peer Review Oversight Committee (PROC) to order at 10:00 a.m.

II. Report of the Committee Chair.

A. Approval of June 15, 2012 Minutes.

Nancy Corrigan asked if members had any changes or corrections to the minutes of the June 15, 2012 PROC meeting. No changes were made.

**It was motioned by Seid Sadat, seconded by T. Ki Lam, and unanimously carried by those present to adopt the minutes of the June 15, 2012 PROC meeting.**

B. Report on the July 26, 2012 CBA Meeting.

Ms. Corrigan stated that she was unable to attend the July 26, 2012 CBA meeting. In her absence, Rafael Ixta presented the PROC report based on her notes.

Mr. Ixta stated that the report to the CBA included the PROC's recent oversight activities, an explanation of the process used to select the PROC's Vice Chair, an overview of the National Association of State Boards of Accountancy's (NASBA) Compliance Assurance Committee's (CAC) presentation to the PROC, the NASBA Quick Polls requested by the PROC, the revised roles and responsibilities of the PROC, and the PROC's discussion concerning posting peer review information on the CBA website.

As a result of the PROC report, CBA members directed the PROC to refrain from discussing policy issues unless directed by the CBA. Should the PROC identify an issue that requires policy discussion, it should be brought to the CBA for consideration and assignment. The CBA members stated that the scope of the PROC is monitoring and providing oversight of the peer review process.

Mr. Ixta explained that as a result of the CBA's direction, the following items were removed from the PROC agenda: NASBA Quick Poll results, Discussion Regarding Posting of Peer Review Information on the CBA Website, Discussion Regarding Title 16, California Code of Regulations, Section 40 Concerning Peer Review Due Dates, and Discussion Regarding Record Retention, which was previously assigned to the Committee on Professional Conduct.

Ms. Corrigan appreciated the CBA's feedback concerning the scope of the PROC. She added that it sounds like the CBA does not mind the PROC making suggestions, but doesn't want time spent on issues until they are officially assigned. Mr. Ixta suggested members listen to the segment of the July 26, 2012, CBA meeting where members discussed the role of the PROC. Ms. Corrigan directed Mr. Ixta to provide members with the specific information needed for them to view the meeting webcast.

#### C. Appointment of PROC Vice Chair.

Ms. Corrigan announced that Robert Lee was appointed as the PROC's Vice Chair. She also stated that Sherry McCoy is second in line. Ms. Corrigan reminded members that she will select 2-3 Vice Chairs, serving consecutive one year terms, after which she will make a recommendation to appoint one of the Vice Chairs to the Chair position.

### III. Report on PROC Activities.

#### A. Report on the July 24, 2012 CalCPA Report Acceptance Body (RAB) Meeting.

Ms. McCoy stated that she went to CalCPA's Glendale office to review the materials prior to the teleconference. She added that due to the number of firms going through peer review, the number of RAB meetings have increased. She stated that a lot of firms are going through peer review for the first time and that both firms and peer reviewers are learning a lot.

#### B. Report on the August 8, 2012 American Institute of Certified Public Accountants' (AICPA) Peer Review Board Meeting.

Mr. Sadat stated that this was his third attendance at an AICPA Peer Review Board meeting and it was very informative. The discussion focused on the automation of the Matters for Future Consideration (MFCs). He stated the topic created a lot of robust discussion.

Linda McCrone added that there was additional discussion regarding firms that are not online. It was decided that the Peer Review Team Captain will enter the information into the computer, then print the documents needed for the firm to sign.

C. Assignment of Future PROC Activities.

Ms. Corrigan made/confirmed the following assignments:

- October 11, 2012 AICPA PRB Meeting – Gary Bong & T. Ki Lam
- November 15-16, 2012 CalCPA PRC Meeting – Katherine Allanson & Robert Lee
- December 11, 2012 CalCPA RAB Meeting – T. Ki Lam

IV. Reports and Status of Peer Review Program.

A. Updates on Peer Review Reporting Forms Received, Correspondence to Licensees, Verification of Peer Review Reporting Forms, and Citations Issued to Licensees that Failed to Respond to CBA.

April Freeman reported that as of July 12, 2012, over 43,000 peer review reporting forms have been submitted to the CBA. The reporting forms are categorized as follows:

License Ending In	Reporting Deadline	Peer Review Required	Peer Review Not Required	Not Applicable (Non-firms)	Total
01-33	7/1/11	2,366	4,236	15,522	22,124
34-66	7/1/12	1,277	3,280	11,015	15,572
67-00	7/1/13	485	1,608	6,140	8,233
		4,128	9,124	32,677	45,929

PROC members requested that the number of responses pending from each group of licensees be added to the statistics. Mr. Ixta added that the way peer review statistics are reported to the CBA will be modified. Future reports will be broken down by phase and include the number of letters sent, citations issued, failed reports, etc. Those statistics will be included in the CBA meeting materials which are available on the CBA website.

Ms. Freeman advised members that approximately 20,954 peer review notification letters were mailed to the third group of licensees in late June 2012. These licensees are due to submit a Peer Review Reporting Form by July 1, 2013.

She added that staff are preparing to mail approximately 4,200 deficiency letters to licensees that were required to submit a Peer Review Reporting Form by July 1, 2012, but have not yet submitted the required form.

Ms. Freeman advised members that staff began reviewing the Peer Review Reporting Forms of Certified Public Accountants that reported they are operating as a sole proprietor but not subject to peer review. To date, staff has reviewed almost 400 reporting forms.

Based on information obtained from the licensees' renewal forms, 91 licensees have been referred to Enforcement. These licensees are being asked to provide the CBA with a description of their highest level attestation engagement, and copies of their timesheets and billing invoices issued for a specific period of time. Mr. Ixta added that the CBA specifically directed staff to request billing invoices.

Ms. Freeman reminded members that 872 citations were issued in February 2012 to licensees who did not respond to the CBA's letters regarding peer review. She gave a status of the citations, including that 489 have been closed. She also explained that licensees that have not complied with the citation will not be able to renew their license until the administrative fine is paid.

B. Status of PROC Roles and Responsibilities Activity Tracking.

Ms. Freeman stated that the chart has been updated to capture recently attended activities and upcoming events.

C. Status and Summary of Failed Peer Reviews.

Ms. Freeman asked if members had any questions regarding the information on failed peer reviews. No questions were raised.

V. Report of the Enforcement Chief.

A. Discussion Regarding Transportation Options for Traveling to PROC Meetings.

Mr. Ixta stated that although PROC members were provided with Deanne Pearce's June 20, 2012 memorandum regarding Economic Modes of Ground Transportation, he wanted to give them the opportunity to ask questions. He reminded members that they are supposed to use the least expensive mode of transportation to attend meetings, including using a rental car if their travel exceeds 60 miles round trip. Members were reminded that they should not accept any insurance on a rental car, return the car with an empty gas tank, or purchase a refueling package. Members were advised that gas is reimbursable with a receipt.

Mr. Ixta stated that the guidelines are set by the Department of Consumer Affairs (DCA); not the CBA. He also reminded members that all travel claims are reviewed by DCA.

B. Development of the 2012 Annual Report to CBA.

Mr. Ixta reminded members that the PROC approved the Table of Contents for the 2012 Annual Report at its June PROC meeting. Also at that meeting, members requested a copy of the 2011 Annual Report so they could begin making updates.

Mr. Ixta stated that the report will be presented to the CBA at its March 2013 meeting, which means the report needs to be finalized at the PROC's February meeting. He also asked that members decide whether they want a stand-alone report every year, or provide addendums to the current report and only prepare a new report every two to

three years. PROC members agreed that the CBA members would probably prefer a fresh report each year.

The PROC went through the 2011 report section by section and made updates. Staff was directed to bring an underline/strikeout draft of the 2012 report to the October PROC meeting.

Members discussed and agreed that the 2012 report should include policy issues that were raised and discussed throughout the year. Ms. Corrigan confirmed that the CBA could then choose whether or not to assign the issue to the appropriate committee.

C. Approval of Letter to the NASBA CAC Regarding Oversight of the National Peer Review Committee (NPRC).

Mr. Ixta stated that staff prepared a draft letter to the NASBA CAC regarding oversight of the NPRC. He summarized the letter and stated that he emailed the draft letter to Janice Gray for her to share at meetings with the CAC and the AICPA Peer Review Board Oversight Task Force. He did not know the results of those meetings.

Gary Bong inquired as to why the PROC is asking for the information and not just telling them we need it. Mr. Ixta explained that the PROC has two options for overseeing the NPRC: (1) provide direct oversight, or (2) monitor the CAC's oversight. He further pointed out that the letter is directed to NASBA, not the NPRC. Mr. Bong suggested the letter be sent directly to the NPRC and expressed concern that all firms be held to the same standard.

Ms. Corrigan reminded members that the PROC has not yet made a final decision on how to oversight the NPRC. Katherine Allanson believes the PROC is being sensitive to the NPRC since it is subject to oversight from all 50 states. Mr. Lee added that the PROC is trying to get the CAC's information in order to determine if the PROC needs to provide additional oversight.

**It was motioned by Robert Lee, seconded by Katherine Allanson, and unanimously carried by those present to finalize the draft letter to the NASBA CAC as presented.**

VI. Future Meeting Dates and Agenda Items.

Ms. Corrigan asked members for feedback regarding the number of PROC meetings needed for 2013. Members agreed that four meetings would be sufficient, even if the meetings were longer.

The proposed PROC meeting dates for 2013 are:

February 22, 2013  
June 21, 2013  
August 23, 2013  
November 1, 2013

**It was motioned by Seid Sadat, seconded by T. Ki Lam, and unanimously carried by those present to accept the proposed PROC meeting dates for 2013.**

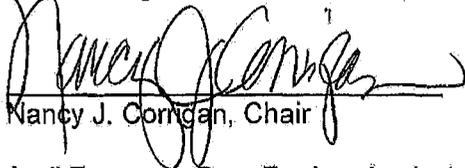
Mr. Bong requested information on the possibility of attending meeting via teleconference. Staff will research options.

VII. Public Comment for Items Not on the Agenda.

None

VIII. Adjournment.

There being no further business, the meeting was adjourned at 12:17 p.m.



Nancy J. Corrigan, Chair

April Freeman, Peer Review Analyst, prepared the PROC meeting minutes. If you have any questions, please call (916) 561-1720.



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**CBA Item XIII.A-C.**  
November 15-16, 2012

## **Officer Elections**

**Presented by:** Marshal Oldman, Esq., President  
**Date:** October 18, 2012

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### **Purpose of the Item**

The purpose of this agenda item is to present the statement of qualifications submitted by members for consideration for Officer Elections at the California Board of Accountancy (CBA) November 2012 meeting.

### **Action Needed**

It is requested that CBA members consider all applicant's statements, including any additional candidates presented at the CBA meeting.

### **Background**

The statements of qualifications are distributed at the November CBA meeting. The President shall ask if there are any additional candidates for the officer positions. All candidates may be given up to five minutes of floor time to describe why they are qualified for the position. The vote for officers shall be taken by a simple hand vote. The President, Vice-President, and Secretary-Treasurer serve one-year terms and may not serve more than two consecutive one-year terms. The newly elected President, Vice-President, and Secretary-Treasurer shall assume the duties of their respective offices at the conclusion of the November meeting at which they were elected.

### **Comments**

The following members have submitted statements of qualifications:

- Leslie J. LaManna, CPA – President
- Michael M. Savoy, CPA – Vice President
- K.T. Leung, CPA – Secretary/Treasurer

### **Fiscal/Economic Impact**

This item does not have a fiscal/economic impact.

### **Recommendation**

None.

### **Attachments**

1. Statement of qualifications for Leslie J. LaManna, CPA.
2. Statement of qualifications for Michael M. Savoy CPA.
3. Statement of qualifications for K.T. Leung, CPA.



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**CBA Item XIV.C.**  
November 15-16, 2012

### **Press Release Focus**

**Presented by:** Deanne Pearce, Assistant Executive Officer

**Date:** November 1, 2012

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

The purpose of this agenda item is to provide suggestions for an appropriate focus for the press release to be issued following each 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 10 press releases since the September 2012 CBA meeting; one post-meeting release and nine enforcement action releases. In addition, a press advisory notifying the media of the November meeting is scheduled to be sent out November 13, 2012.

#### **Comments**

None.

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

None.

#### **Recommendation**

Staff recommendation will be made at the time of this presentation.

#### **Attachments**

1. Post- CBA Meeting News Release
2. Enforcement Action News Releases



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## Attachment 1

# NEWS RELEASE

FOR IMMEDIATE RELEASE

CONTACT: LAUREN HERSH  
(916) 561-1789

## **CALIFORNIA BOARD OF ACCOUNTANCY REVIEWS ACCOMPLISHMENTS, SETS COURSE FOR FUTURE**

SACRAMENTO – Enhancing consumer protection, sponsoring legislation that will allow CPAs in good standing to “retire” their licenses, and reducing renewal fees during a tough economy are among some of the activities and the accomplishments of the CBA in Fiscal Year 2011-2012.

The accomplishments were part of the Annual Report presented to and approved by the CBA at its meeting on September 20-21, 2012 in Irvine. The Annual Report is available to the public at [http://www.dca.ca.gov/cba/publications/annual\\_rpt\\_2012.pdf](http://www.dca.ca.gov/cba/publications/annual_rpt_2012.pdf).

The CBA also voted to adopt a new strategic plan for 2013 – 2015. This Strategic Plan identifies seven goals and 28 objectives developed to enable the CBA to meet its mandates identified in the Accountancy Act (California Business and Professions Code, Section 5000 et.seq.) and CBA Regulations (California Code of Regulations, Title 16, Division 1), as well as the policy directions of CBA Board members.

The 2013-2015 Strategic Plan, which will be implemented over the three year period, is also available on the CBA website at <http://www.dca.ca.gov/cba/publications/stratpln2013-2015.pdf>. Both the Annual Report and the Strategic Plan are also available by mail upon request.

New objectives in the 2013-2015 Strategic Plan involve major changes that are coming to the accounting profession in California. Among them are:

- The implementation of a new practice privilege program as provided for by SB 1405, California’s new “mobility law.”
- The implementation of a new military inactive status for California CPAs who are on active duty in the armed forces or National Guard.
- The implementation of the new educational requirements for CPA licensure beginning January 1, 2014, which include 30 units of education in the areas of accounting and ethics study, as well as address any transition issues.

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*Created by statute in 1901, the CBA's mandate requires that protection of the public shall be its highest priority in exercising licensing, regulatory, and disciplinary functions. The CBA currently regulates more than 84,000 licensees, the largest group of licensed accounting professionals in the nation, including individuals, partnerships, and corporations.*

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*More information about the California Board of Accountancy is available at [www.cba.ca.gov](http://www.cba.ca.gov)*



**California Board of Accountancy  
Enforcement Action News Release**

**Attachment 2**

Sent to [business@latimes.com](mailto:business@latimes.com) (Los Angeles Times) on  
October 29, 2012

**David Deuk-Kwon Kim, Los Angeles, CA (CPA 56598); Arnold Charles Libman, Sierra Madre, CA (CPA 18769); Linda Jean Wilson, Marina del Rey, CA (CPA 35978)** 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](mailto:pbowers@cba.ca.gov) should you have any questions regarding these enforcement actions.

[http://www.dca.ca.gov/cba/discipline/decisions/index\\_k.shtml#738](http://www.dca.ca.gov/cba/discipline/decisions/index_k.shtml#738)  
[http://www.dca.ca.gov/cba/discipline/decisions/index\\_l.shtml#761](http://www.dca.ca.gov/cba/discipline/decisions/index_l.shtml#761)  
[http://www.dca.ca.gov/cba/discipline/decisions/index\\_w.shtml#671](http://www.dca.ca.gov/cba/discipline/decisions/index_w.shtml#671)

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Sent to [business@ocregister.com](mailto:business@ocregister.com) (Orange County Register) on October 29, 2012

**Richard Gensley Boyer, Costa Mesa, CA (CPA 17438) and Robert Michael Passero, Seal Beach, CA (CPA 16608)** 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](mailto:pbowers@cba.ca.gov) should you have any questions regarding these enforcement actions.

[http://www.dca.ca.gov/cba/discipline/decisions/index\\_b.shtml#780](http://www.dca.ca.gov/cba/discipline/decisions/index_b.shtml#780)

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Sent to [Biznews@sbtinfo.com](mailto:Biznews@sbtinfo.com) (South Bend Tribune) on October 29, 2012

**Drew Wesley Evans, South Bend, IN (CPA 92055)** 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](mailto:pbowers@cba.ca.gov) should you have any questions regarding this enforcement action.

[http://www.dca.ca.gov/cba/discipline/decisions/index\\_e.shtml#930](http://www.dca.ca.gov/cba/discipline/decisions/index_e.shtml#930)

**California Board of Accountancy  
Enforcement Action News Release**

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Sent to [diana.mccabe@utsandiego.com](mailto:diana.mccabe@utsandiego.com) (San Diego Tribune) and [don.bauder@mac.com](mailto:don.bauder@mac.com) (San Diego Leader) on October 29, 2012

**Ronald Klingensmith, Escondido, CA (CPA 50448) and K2 Certified Public Accountants (FNP 2061)** 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](mailto:pbowers@cba.ca.gov) should you have any questions regarding these enforcement actions.

[http://www.dca.ca.gov/cba/discipline/decisions/index\\_k.shtml#661](http://www.dca.ca.gov/cba/discipline/decisions/index_k.shtml#661)  
[http://www.dca.ca.gov/cba/discipline/decisions/index\\_k.shtml#976](http://www.dca.ca.gov/cba/discipline/decisions/index_k.shtml#976)

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Sent to [mlimon@sltrib.com](mailto:mlimon@sltrib.com) (Salt Lake Tribune) on October 29, 2012

**Jennifer Nakao, Murray, UT (CPA 82141)** 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](mailto:pbowers@cba.ca.gov) should you have any questions regarding this enforcement action.

[http://www.dca.ca.gov/cba/discipline/decisions/index\\_n.shtml#755](http://www.dca.ca.gov/cba/discipline/decisions/index_n.shtml#755)

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Sent to [cdebenedetti@bayareanewsgroup.com](mailto:cdebenedetti@bayareanewsgroup.com) (Oakland Tribune) on October 29, 2012

**Edward A. Robinson, Fremont, CA (CPA 23322)** 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](mailto:pbowers@cba.ca.gov) should you have any questions regarding this enforcement action.

[http://www.dca.ca.gov/cba/discipline/decisions/index\\_r.shtml#814](http://www.dca.ca.gov/cba/discipline/decisions/index_r.shtml#814)