



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



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

- 
- |  |   |
|--|---|
| <b>DATE:</b> Thursday, May 28, 2015  | <b>JOINT CBA &amp; MSG MEETING</b><br><b>TIME:</b> 9:00 a.m.  |
| <b>DATE:</b> Thursday, May 28, 2015  | <b>MSG MEETING</b><br><b>TIME:</b> 10:30 a.m. or upon adjournment<br>of the Joint CBA & MSG Meeting |
| <b>DATE:</b> Thursday, May 28, 2015  | <b>CPC MEETING</b><br><b>TIME:</b> 11:00 a.m. or upon adjournment<br>of the MSG Meeting             |
| <b>DATE:</b> Thursday, May 28, 2015  | <b>LC MEETING</b><br><b>TIME:</b> 11:15 a.m. or upon adjournment<br>of the CPC Meeting              |
| <b>DATE:</b> Thursday, May 28, 2015  | <b>EPOC MEETING</b><br><b>TIME:</b> 11:45 a.m. or upon adjournment<br>of the LC Meeting             |
| <b>DATE:</b> Thursday, May 28, 2015  | <b>CBA MEETING</b><br><b>TIME:</b> 1:30 p.m. to 5:00 p.m.   |
| <b>DATE:</b> Friday, May 29, 2015  | <b>CBA MEETING</b><br><b>TIME:</b> 9:00 a.m. to 11:00 a.m.  |
| <b>PLACE:</b> Hilton Los Angeles Airport<br>5711 West Century Boulevard<br>Los Angeles, CA 90045<br>Telephone: (310) 410-4000<br>Fax: (310) 410-6250 |   |

Enclosed for your information is a copy of the agendas for the Joint CBA & MSG, MSG, CPC, LC, EPOC, and CBA meetings on May 28-29, 2015. For further information regarding these meetings, please contact:

Corey Riordan, Board Relations Analyst  
(916) 561-1716 or [cfriordan@cba.ca.gov](mailto:cfriordan@cba.ca.gov)  
California Board of Accountancy  
2000 Evergreen Street, Suite 250  
Sacramento, CA 95815

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

The meeting is accessible to individuals who are physically disabled. A person who needs a disability-related accommodation or modification in order to participate in the meeting may make a request by contacting Corey Riordan at (916) 561-1718, or email [cfriordan@cba.ca.gov](mailto:cfriordan@cba.ca.gov), or send a written request to the CBA Office at 2000 Evergreen Street, Ste. 250, Sacramento, CA 95815. Providing your request at least five (5) business days before the meeting will help to ensure availability of the requested accommodation.



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



**DEPARTMENT OF CONSUMER AFFAIRS (DCA)  
CALIFORNIA BOARD OF ACCOUNTANCY (CBA)  
AND  
MOBILITY STAKEHOLDER GROUP (MSG)**

**JOINT CBA & MSG MEETING  
AGENDA  
Thursday, May 28, 2015  
9:00 a.m.**

**Hilton Los Angeles Airport  
5711 West Century Boulevard  
Los Angeles, CA 90045  
Telephone: (310) 410-4000  
Fax: (310) 410-6250**

**Important Notice to the Public**

All times indicated, other than those identified as "time certain," are approximate and subject to change. Agenda items may be discussed and action taken out of order at the discretion of the CBA President. The meeting may be cancelled without notice. For verification of the meeting, call (916) 561-1716 or access the CBA's website at <http://www.cba.ca.gov>.

Call to Order, Roll Call, and Establishment of Quorum  
(**Jose Campos, CBA President & Katrina Salazar, MSG Chair**).

- I. Discussion on the National Association of State Boards of Accountancy's (NASBA) Guiding Principles of Enforcement and its Comparison to the California Board of Accountancy's Enforcement Practices, Pursuant to Business and Professions Code Section 5096.21 (**Ken Bishop, NASBA President and Chief Executive Officer; Maria Caldwell, NASBA Chief Legal Counsel and Director of Compliance Services; Stacey Grooms, NASBA Regulatory Affairs Manager; and Dominic Franzella, CBA Enforcement Chief**).
  - II. Public Comments. \*
- Adjournment

Action may be taken on any item on the agenda.

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

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



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



**CBA/MSG Item I.**  
May 28, 2015

**Discussion on the National of Association of State Boards of Accountancy's (NASBA) Guiding Principles of Enforcement and its Comparison to the California Board of Accountancy's Enforcement Practices, Pursuant to Business and Professions Code Section 5096.21**

**Presented by:** Dominic Franzella, Chief of Enforcement

---

**Purpose of the Item**

The purpose of this item is to provide the California Board of Accountancy (CBA) and Mobility Stakeholder Group (MSG) with information on how the CBA enforcement practices compare with the recently released National Association of State Board of Accountancy's (NASBA) "Guiding Principles of Enforcement." (**NASBA Enforcement Guidelines**)

**Action(s) Needed**

No specific action is required on this agenda item. Instead, the CBA will use this comparison in its consideration of issuing a finding regarding whether the NASBA Enforcement Guidelines meet or exceed the CBA's own enforcement practices that will occur under **CBA Agenda Item X**.

**Background**

The Legislature established and charged the CBA with the express purpose of protecting consumers (Business and Profession Code (BPC) section 5000.1). The CBA works to meet this legislative mandate by ensuring only qualified licensees practice public accountancy in accordance with applicable professional standards. One of the primary components to meeting its mission is the CBA Enforcement Program. The Enforcement Program is responsible for:

1. Ensuring that licensees are in compliance with the provisions of the Accountancy Act and CBA Regulations.
2. Conducting investigations of unlicensed practice.
3. Referring matters to the Office of the Attorney General or local jurisdictions for prosecution.
4. Imposing discipline consistent with the disciplinary guidelines.
5. Imposing other enforcement actions, such as citations, fines, administrative suspensions, etc, where warranted.
6. Monitoring probationers to ensure compliance with probationary terms.

## **Discussion on NASBA's Guiding Principles of Enforcement and its Comparison to the California Board of Accountancy's Enforcement Practices, Pursuant to Business and Professions Code Section 5096.21**

Page 2 of 3

### **Comments**

BPC section 5096.21 includes various requirements designed to ensure that the practice privilege provisions that took effect on July 1, 2013 (commonly referred to as mobility or no notice, no fee, no escape practice privilege program) meet the CBA's fiduciary responsibility to protect consumers. The section outlines various determinations and pre-determinations the CBA must make regarding allowing licensees from the other jurisdictions to continue to exercise a practice privilege under the mobility provisions. BPC section 5096.21 outlines the factors the CBA must consider in making these determinations, including: (1) whether states timely and adequately address enforcement referrals by the CBA, (2) whether the state makes disciplinary history of its licensees publically available, and (3) whether the state imposes discipline against licensees that is appropriate in light of the nature of the alleged misconduct.

BPC section 5096.21 does provide an additional alternative to performing these determinations. To meet this alternative, the following must have occurred:

- (1) NASBA adopts enforcement best practice guidelines;
- (2) The CBA, 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;
- (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.

Staff is providing information on how the CBA Enforcement Program compares with the NASBA Enforcement Guidelines to provide the CBA with context as it seeks to evaluate NASBA Enforcement Guidelines for purposes of number 2 above.

NASBA's Enforcement Guidelines is comprised of five main principles: (1) Time Frames for Prosecuting a Complaint from Intake to Final Disposition, (2) Enforcement Resources to Adequately Staff Investigations, (3) Case Management, (4) Disciplinary Guidelines, and (5) Internet Disclosure.

In addition to providing the NASBA Enforcement Guidelines as a singular document, each of the NASBA Enforcement Guidelines principles is provided in its own separate attachment. For each principle, staff have include the NASBA Enforcement Guidelines, found in blue font, with a comparison to the CBA, titled CBA Comparison, in regular

## **Discussion on NASBA's Guiding Principles of Enforcement and its Comparison to the California Board of Accountancy's Enforcement Practices, Pursuant to Business and Professions Code Section 5096.21**

Page 3 of 3

black font. At the conclusion of each principle, staff have included a section titled "Staff's Observations." For this section, staff have identified, in its estimation, whether the CBA enforcement practices meets the principles outlined by NASBA.

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

There are no fiscal/economic impact considerations.

### **Recommendation**

Staff does not have a recommendation on this agenda item. The CBA will discuss taking possible action to issue a finding on whether the NASBA Enforcement Guidelines meet or exceed the CBA's own enforcement practices under **CBA Agenda Item X**.

### **Attachments**

1. Time Frames for Prosecuting a Complaint from Intake to Final Disposition
- 1a. Department of Consumer Affairs, California Board of Accountancy, Performance Measures, Annual Report (2013-2014 Fiscal Year)
2. Enforcement Resources to Adequately Staff Investigations
3. Case Management
4. Disciplinary Guidelines
- 4a. *A Manual of Disciplinary Guidelines and Model Disciplinary Orders* (8<sup>th</sup> Edition, 2013)
5. Internet Disclosure

## Guiding Principles of Enforcement

NASBA

5-12-15

The purpose of issuing these Guiding Principles is to promote consumer protection by promoting uniformly effective board enforcement and disclosure policies and practices nationally as a reinforcing compliment to mobility, which depends upon all states having confidence in the enforcement and disclosure policies and practices of the home state of the mobile licensee. While of course not binding on boards, these Guiding Principles are based on exhaustive, multi-year research into the enforcement and disclosure practices and policies of the boards of the 55 jurisdictions, and represent NASBA identifying common practices for boards to consider and, potentially, against which to measure themselves.

### ENFORCEMENT

Board enforcement throughout the nation is largely complaint driven. How boards handle complaints is, therefore, foundational to how well its enforcement program works to benefit consumers.

What follows are the performance-based hallmarks of enforcement programs and Guiding Principles related to each. How fast are complaints addressed? How are complaints prioritized? How fast are urgent complaints addressed? What discipline is imposed? What is the quality of the resources available and the capacity of those resources? These are some of the key questions to be weighed when evaluating an enforcement program.

#### 1. Time Frames for prosecuting a complaint from intake to final disposition

**General Findings:** State laws often dictate the manner in which boards prosecute cases, in some cases dictating the manner in which actions are handled. For example one board may have the authority to close a complaint without merit almost immediately based solely on the decision of the Executive Director, while another board may be required to hold the file open until a vote by the board at the next scheduled meeting.

When considering a new complaint, boards should first determine whether a complaint has legal merit and, if legal merit is found, whether the state board has jurisdictional nexus on the matter. If both these criteria are satisfied and the board determines to move forward with the enforcement matter, the board should then consider whether any discipline already issued by another agency, board, etc. was sufficient to address the violations or whether the harm justifies further enforcement action by the board.

An analysis of the various jurisdictions reveals useful benchmarks for the time frame of handling complaints. Set forth below are targeted time frames that boards should strive to meet, understanding there are instances where different time frames are appropriate in light of the legal and operational considerations (e.g. volume of complaints) that may justify different targets for certain boards.

- a. Decision to (i) close complaints for lack of legal merit or jurisdictional nexus or (ii) initiate an investigation
  - i. Target – 7 days after expiration of time period for responses with either receipt of all supporting document from parties or failure to respond, or

- at next scheduled board/complaint committee meeting
- b. Assignment of investigator
  - i. Target – 10 days from decision to initiate investigation
- c. Completion of investigation
  - i. Target – 180 days or less from initiation of investigation
- d. Formal Discipline at administrative level – final disposition
  - i. Target – 540 days or less from initiation of complaint
- e. Initiation of action (re-opening of complaint) or initiation of new complaint following probation violation
  - i. Target – 15 days or next scheduled board/complaint committee meeting

## 2. Enforcement resources to adequately staff investigations

**General Findings:** Both consumers and licensees have an interest in seeing complaints processed expeditiously, with a board enjoying adequate enforcement resources to ensure a fair and efficient process. Generally, the appropriate level of enforcement resources in a given jurisdiction is a function of the size of the jurisdiction’s licensee population, and the number and nature of complaints typically handled by that jurisdiction. A board with 70,000 licensees will need a much more robust investigative unit with more personnel, but a board with 1,500 licensees may be able to utilize board members with specialized knowledge to handle investigations. Overall, 33 jurisdictions have less than 10,000 licensees (“small” jurisdictions); 13 jurisdictions have 10,000-20,000 licensees (“mid-size”); and nine have more than 20,000 licensees (“large”). In instances where the size of a jurisdiction’s licensee population has a direct bearing on what should be considered a “guiding principle of enforcement” (e.g. setting appropriate staff levels and training), separate targets are suggested below for small, mid-size and large jurisdictions. In determining adequate staffing resources a board should routinely evaluate staffing levels to ensure that the appropriate number of staff are assigned to the right positions and at the right time. A board should evaluate their respective program needs, taking into consideration workload projections and any new anticipated workload over the coming years (possibly as a result of law or rule changes). When evaluating staffing workload, a board should consider identified core tasks to complete investigations, general duration of time to complete the tasks, and the number of staff presently assigned to handle investigation. Based on this evaluation, a board should determine if any overages or shortages in workload exist and seek to align staffing resources accordingly.

- a. Adequate staff resources to handle investigations in a timely manner can be measured as follows:
  - i. Ratio of CPA licensees to investigators
    1. Small jurisdictions – 10,000:1\*
    2. Mid-size jurisdictions – 20,000:1\*
    3. Large jurisdictions – 30,000:1\*

\*It was difficult to determine an exact ratio with regard to the number of investigators potentially available for assignment to a case because so many boards rely on a pool of investigators to staff complaints. Pools can range from 2 to 25 and we were unable to ascertain specific pool numbers from most jurisdictions. In an effort to provide some concrete guidance, we relied on the assumption that all pools were comprised of 2 investigators. As a result, the actual number of investigators available in most jurisdictions would be much higher than those indicated above.

ii. Ratio of investigators to open complaints:

1. Small jurisdictions – 1:90\*
2. Mid-size jurisdictions – 1:125\*
3. Large jurisdictions – 1:150\*

\*It was difficult to determine an exact ratio with regard to the number of investigators potentially available for assignment to a case because so many boards rely on a pool of investigators to staff complaints. Pools can range from 2 to 25 and we were unable to ascertain specific pool numbers from most jurisdictions. In an effort to provide some concrete guidance, we relied on the assumption that all pools were comprised of 2 investigators. As a result, the actual number of investigators available in most jurisdictions would be much higher than those indicated above.

b. Factors that may warrant modification (up or down) to such ratios:

- i. Ratio of administrative complaints to practice complaints – history of practice claims in a particular jurisdiction would warrant more investigators per licensee. Administrative complaints are typically less complicated and would include violations like failure to renew, failure to obtain CPE (“Administrative Complaints”). Practice complaints are generally more complex and would include violations such as failure to follow standards, failure to follow the code of conduct and actions involving dishonesty or fraud (“Practice Complaints”).
- ii. Ratio of complaints involving firms with offices in multiple states versus smaller firms with local offices. The prevalence of complex cases, such as cases against the auditors in Enron and against big firms that involve representation by outside law firms may require an increase in the ratio of investigators to licensees, to handle the added workload associated with periodic complex cases.

c. Qualification and training of investigators

- i. Large, mid-size and small accountancy boards should all seek to utilize CPAs, law enforcement, board staff, or other individuals with accounting or investigative training (such as the Investigator Training Series identified in Section 2 (c)(iii) below or the training offered by the Council on Licensure, Enforcement and Regulation (CLEAR)) as an investigator whenever possible;
- ii. Encourage investigative staff to attend investigative training seminars such as those hosted by CLEAR;
- iii. Encourage investigative staff to complete the Investigator Training Series on [NASBA.org](http://NASBA.org)
- iv. Boards should establish and follow a process for determining appropriate utilization of CPA investigators and/or CPA board members or staff and non-CPA investigators, which considers whether the case involves an Administrative Complaint or involves a Practice Complaint.
- v. Boards should utilize subject matter experts for complex investigations involving highly technical areas and standards, such as ERISA, Yellow Book, cases involving complicated tax issues, and fraud.
  1. Work with NASBA to identify a means of obtaining the necessary

- resources if costs are prohibitive to boards
- 2. Use NASBA pool of available expert witnesses, if needed, to address complex issues, such as those items referenced in subsection (v) above
- 3. Referral to a board member with expertise that is case specific
  - a. In such cases, the Board member should recuse himself/herself from further participation in any formal disciplinary action in the specific matter
- d. Boards should be able to access funds in a timely manner to handle a case against a big firm, as a demand arises, either through an appropriation process, the board, the umbrella agency, or the prosecuting agency.

### 3. Case management

**General Findings:** The volume of complaints considered by a board will also have a bearing regarding case management for a particular board. For example, a board handling 3,000 complaints a year typically should have a system in place to prioritize those cases based upon the potential for harm, while a board receiving only 1-3 complaints will not need a prioritization system because each complaint can receive immediate attention. If the number of complaints received by board requires prioritization in order to adequately address all complaints and best allocate board resources to achieve maximum protection of the public, then such jurisdiction should identify cases for potential to cause greatest harm, or offenses that are indicators of problems that could lead to such harm and adopt procedures to manage Administrative Complaints by handling them in a manner similar to that outlined below in Section 3(a) and Practice Complaints by handling them in a manner similar to that outlined below in Section 3(b).

- a. Administrative Complaints involving matters of licensing deficiencies such as, failure to timely renew or obtain CPE, improper firm names, other administrative matters and certain first-time misdemeanor offenses, generally pose a lesser threat to the public and as such may be processed as follows:
  - i. Attorney, Executive Director, and/or qualified staff review informal matters
  - ii. Cases can be closed based on voluntary compliance
  - iii. Informal conference may be scheduled to assist in reaching a settlement or if there is non-compliance with an agreed resolution
- b. Practice Complaints generally involving matters of incompetence, dishonesty, violation of any rule of professional ethics or professional conduct, failing to timely complete an engagement, failure to communicate, criminal convictions, breach of fiduciary duty or fraud or disclosing confidential information pose a greater threat to the public and as such are generally processed as follows:
  - i. Summary of investigation is reviewed by Attorney, Executive Director, appointed Board member, or Complaint Committee (depending upon board structure)
  - ii. Further investigation may be requested
  - iii. Information Conference may be scheduled to aid settlement

- iv. Upon determination of a violation, corrective (remedial) or disciplinary action is taken (either by consent agreement or proceeding to formal hearing) upon approval of the Board
- c. Boards should review discipline from other agencies, such as the DOL, SEC, PCAOB, and AICPA, included in the NASBA Quarterly Enforcement Report to determine whether such discipline should give rise to disciplinary action by the Board.
- d. Boards should use a method of tracking probationary matters with assigned personnel (staff or investigator) to monitor compliance with probationary terms, such as follow up phone calls or other correspondence with licensee, requiring the licensee to appear in person at interviews/meetings as directed by the Board to report on probation compliance, submitting written quarterly compliance reports, and/or allowing a practice investigation upon request of the Board.

#### 4. Disciplinary Guidelines

**General Findings:** Boards of accountancy are charged with protecting consumers by regulating the profession and disciplining licensees who fail to comply with the professional standards. Another goal of the disciplinary process is to increase adherence to licensing requirements and professional standards, thereby elevating the quality of services provided by the profession. Boards have the authority to impose discipline to revoke, suspend, condition, or refuse to renew a license or certificate for violation of rules and regulations or statutes of the accountancy law. Boards should strive to impose fair and consistent discipline against licensees who violate the accountancy laws or rules. These guidelines recommend penalties and conditions of probation for specific statutes and rules violated, as well as aggravating and mitigating circumstances that may necessitate deviation from the recommended discipline. The disciplinary guidelines are to be used by Board members, Board staff, and others involved in the disciplinary process. Boards may exercise discretion in recommending penalties, including conditions of probation, as warranted by aggravating and mitigating circumstances.

- a. The disciplinary process for boards of accountancy should consider offenses and their appropriate penalties, including the following major categories of offenses. Each determination should be fact specific and penalties may be escalated, reduced or combined depending on the Boards' consideration of the relevant mitigating and aggravating factors.
  - i. Grounds for Revocation
    - 1. Revocation of a license/permit by another agency or Board
    - 2. Failure to inform the Board of a failed peer review
    - 3. Fraud or deceit in obtaining a license
    - 4. Conviction of any crime substantially related to the qualifications, functions, or duties of a CPA (involving dishonesty or fraud)
    - 5. Dishonesty, fraud, or gross negligence in the practice of public accounting
    - 6. Commission of a felony
  - ii. Grounds for Suspension/Probation
    - 1. Failure to comply with board order
    - 2. Failure to meet firm ownership requirements
    - 3. Failure of a peer review

- iii. Grounds for Monetary Fine/Penalty
  - 1. Unlicensed conduct
  - 2. Failure to comply with professional standards or code of conduct
  - 3. Failure to renew
  - 4. Failure to timely complete CPE or peer review
- iv. Grounds for Remediation
  - 1. Failure to comply with professional standards
  - 2. Issues regarding client records/ownership of work papers
  - 3. Issues regarding confidential disclosures
  - 4. Unlicensed conduct due to inadvertence (i.e., mobility, multiple designations, foreign accountants, etc.)
  - 5. Misleading name, title, or designation
- b. Boards may adopt specific factors to consider in assessing penalties, such as:
  - i. Permissible sanctions available to the Board, including those sanctions set forth in Section 4(a) above
  - ii. Mitigating or aggravating factors (described in detail below)
  - iii. Past disciplinary history or “trends” in licensee’s behavior involving this Board or other agencies such as SEC, IRS, PCAOB and societies
  - iv. Likelihood of repeating the behavior
  - v. Potential for future public harm
  - vi. Potential for licensee’s rehabilitation
  - vii. Extent of damages or injury due to licensee’s behavior
  - viii. Board sanctions with similar misconduct in other cases
  - ix. Other enforcement actions or legal actions against licensee involving the conduct which is the subject of the current case (and impact of those actions/sanctions upon licensee)
  - x. Whether action was a clear violation or was an area of law/rule subject to interpretation
  - xi. Whether the individual or firm has already been sanctioned for the action by another state, PCAOB the SEC, or other enforcement body, and whether the enforcement body imposed sanctions consistent with sanctions the board would typically impose under the circumstances.
- c. Boards may consider the following mitigating factors in assessing penalties:
  - i. Passage of time without evidence of other professional misconduct
  - ii. Convincing proof of rehabilitation
  - iii. Violation was without monetary loss to consumers and/or restitution was made
  - iv. If multiple licensees are involved in the violation, the relative degree of culpability of the subject licensee should be considered
- d. Boards may consider the following aggravating factors in assessing penalties:
  - i. Failure to cooperate with Board in investigation of complaint and/or disciplinary process (providing requested documentation, timely responses, participating in informal conference)
  - ii. Violation is willful, knowingly committed and/or premeditated
  - iii. Case involved numerous violations of Board’s statutes and rules, as well as federal or other state statutes
  - iv. History of prior discipline, particularly where prior discipline is for same or similar conduct
  - v. Violation results in substantial harm to client, employer and/or public

- vi. Evidence that licensee took advantage of his client for personal gain, especially if advantage was due to ignorance, age or lack of sophistication of the client

## 5. Internet Disclosure

**General Findings:** The goal is to allow market forces to elevate the profession by directing consumers away from licensees with troubled records and toward those who have adhered to professional standards. Thus, the disclosures must be of sufficient detail for consumers to be able to make informed judgments about whether discipline poses a risk to them or is indicative of a prior problem relevant to why they are retaining the CPA.

Finally, internet disclosure has two other beneficial consequences. One, it elicits confidence in the board's operations. If a consumer found out that the board had secreted information from the public about a CPA that hurt the consumer, that consumer would not view the board as its champion. Likewise, as enforcement is the major duty of the board, disclosure of enforcement promotes transparency and accountability about the performance of an important state government agency.

Internet disclosures should for these reasons provide easy access by consumers to the disciplinary history, if any, of a CPA offering services to the consumer. States will vary in the documents that may be accessed by the public online, but at a minimum, states should provide sufficient information that a consumer can readily determine if any regulatory "red flags" exist that warrant further investigation by the consumer.

- a. Boards should participate in the ALD and CPAverify
  - i. Boards should strive to provide final disciplinary action to ALD/CPA Verify for notation in the database
  - ii. Boards should strive to provide information necessary for "hashing" licensee records across jurisdictions to the ALD to assist transparency and cross-border discipline
- b. Boards should publish final disciplinary action by the Board through a web site, newsletter or other available media, either with specific information regarding the facts that caused the board to impose discipline including, but not limited to, a board considering posting official documents that would be public records if requested by a consumer, or sufficient information to allow the consumer to contact the Board for particular details.
- c. Boards should capture "discipline under mobility" violation in CPAverify licensee record indicating the state where discipline was issued, with sufficient information to allow the consumer to contact the disciplining board to investigate the activity that resulted in discipline.

**DEPARTMENT OF CONSUMER AFFAIRS**

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

**Attachment 1****1. Time Frames for Prosecuting a Complaint from Intake to Final Disposition**

For this principle, the NASBA Enforcement Guidelines includes five time frames. These time frames align closely to the CBA-established performance measures for its Enforcement Program.<sup>1</sup> The CBA's most recent annual report on CBA performance measures (2013-2014) are provided in **Attachment 2a**.

**NASBA Enforcement Guidelines**

**General Findings:** State laws often dictate the manner in which boards prosecute cases, in some cases dictating the manner in which actions are handled. For example one board may have the authority to close a complaint without merit almost immediately based solely on the decision of the Executive Director, while another board may be required to hold the file open until a vote by the board at the next scheduled meeting.

When considering a new complaint, boards should first determine whether a complaint has legal merit and, if legal merit is found, whether the state board has jurisdictional nexus on the matter. If both these criteria are satisfied and the board determines to move forward with the enforcement matter, the board should then consider whether any discipline already issued by another agency, board, etc. was sufficient to address the violations or whether the harm justifies further enforcement action by the board.

An analysis of the various jurisdictions reveals useful benchmarks for the time frame of handling complaints. Set forth below are targeted time frames that boards should strive to meet, understanding there are instances where different time frames are appropriate in light of the legal and operational considerations (e.g. volume of complaints) that may justify different targets for certain boards.

**CBA Comparison**

At the time a complaint is filed, staff evaluate the complaint to establish jurisdiction and a potential violation of the California Accountancy Act, CBA Regulations, or both. For those complaints where the CBA does not have jurisdiction, staff close the complaint and refer it back to the originating source or to the appropriate agency.

---

<sup>1</sup> The CBA has adopted the Department of Consumer Affairs (DCA) performance measures, which the DCA developed as part of its Consumer Protection Enforcement Initiative.

## Time Frames for Prosecuting a Complaint from Intake to Final Disposition

Page 2 of 3

### NASBA Enforcement Guidelines

- a. Decision to (i) close complaints for lack of legal merit or jurisdictional nexus or (ii) initiate an investigation
  - i. Target – 7 days after expiration of time period for response with either receipt of all supporting documentation from parties or failure to respond, or at next scheduled board/complaint committee meeting

### CBA Comparison

The CBA does not have a specific performance measure that addresses closure of a case without legal merit or jurisdictional nexus. Cases that are closed without merit or jurisdiction are calculated in the CBA's Performance Measure (PM) 2. This requires that the process be completed within 10 days. As for initiate an investigation, this time frame is also calculated in PM 2.

### NASBA Enforcement Guidelines

- b. Assignment of investigator
  - i. Target – 10 days from decision to initiate investigation

### CBA Comparison

The CBA's performance measure is 10 days from complaint receipt to the date the complaint was assigned to an investigator (PM 2).

### NASBA Enforcement Guidelines

- c. Completion of investigation
  - i. Target – 180 days or less from initiation of complaint

### CBA Comparison

The CBA's performance measure is 180 days from complaint receipt to closure of the investigation process (PM 3).

### NASBA Enforcement Guidelines

- d. Formal discipline at administrative level – final disposition
  - i. Target – 540 days or less from initiation of complaint

### CBA Comparison

The CBA's performance measure is 540 days to complete the entire enforcement process for cases resulting in formal discipline (PM 4).

This performance measure includes time spent from intake through investigation and prosecution by the Attorney General's Office. This performance measure also includes any time the matter spends in the court system as a result of the Respondent filing an appeal or Writ of Mandate.<sup>2</sup>

---

<sup>2</sup> This additional time is beyond the CBA's control. As such, this is one area that the CBA's Executive Officer will be working with DCA to possibly revise this performance measure to more accurately reflect the CBA's time frames as it relates to the work within its ability to control.

## **Time Frames for Prosecuting a Complaint from Intake to Final Disposition**

Page 3 of 3

### **NASBA Enforcement Guidelines**

- e. Initiation of action (re-opening of complaint) or initiation of new complaint following probation violation
  - i. Target – 15 days or next scheduled board/complaint committee meeting

### **CBA Comparison**

The CBA's performance measure is 15 days from the date a violation of probation is reported to the date the assigned monitor initiates appropriate action (PM 8).

The CBA does maintain one additional performance measure not captured in the NASBA Enforcement Guidelines related to Probation Intake. Probation Intake (PM 7) identifies a five-day target from the time a probation monitor is assigned to the date the probation monitor makes first contact with the probationer.

### **Staff's Observations**

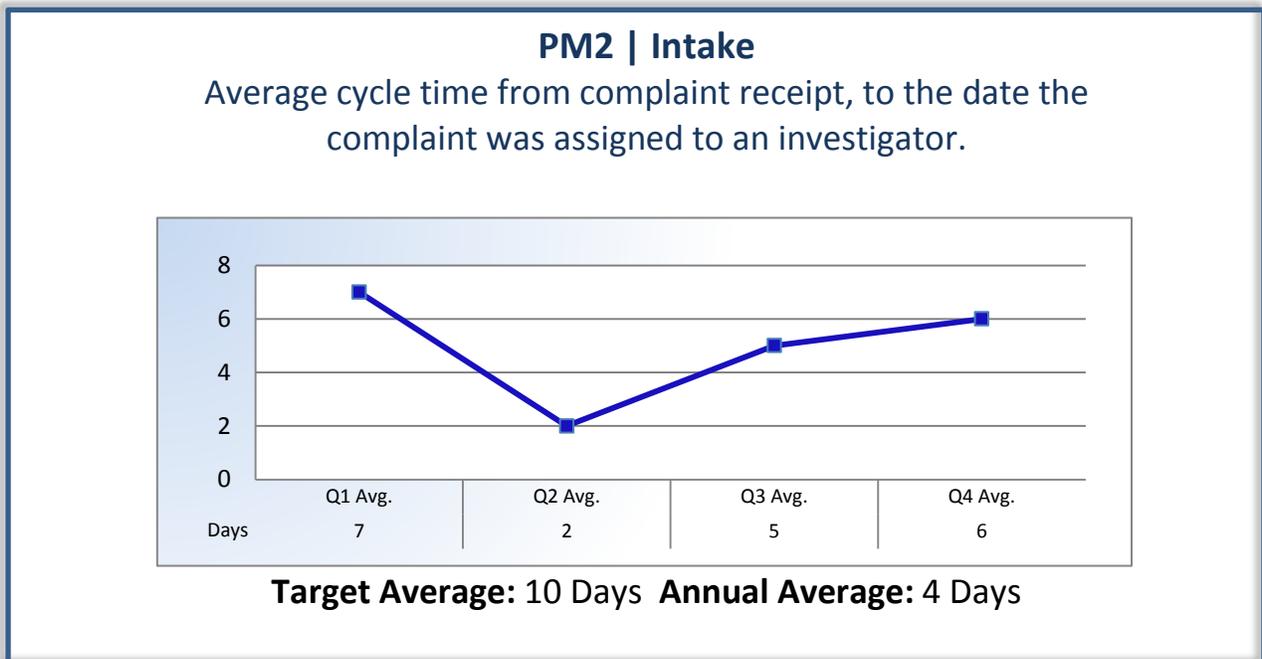
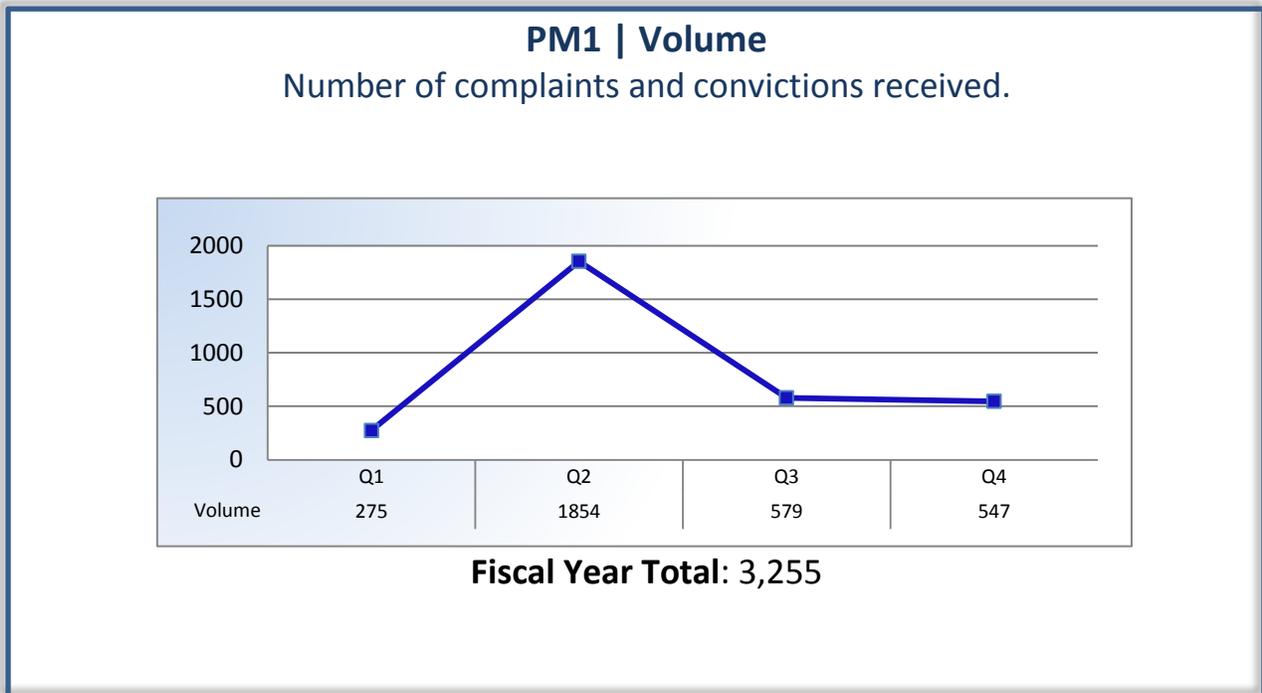
Staff believes the CBA enforcement practices meet the time frames outlined in the NASBA Enforcement Guidelines.

# California Board of Accountancy

## Performance Measures

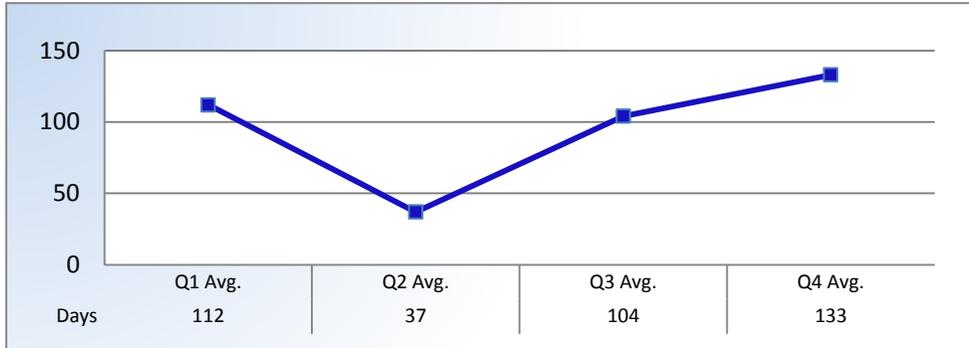
### Annual Report (2013 – 2014 Fiscal Year)

To ensure stakeholders can review the Board’s progress toward meeting its enforcement goals and targets, we have developed a transparent system of performance measurement. These measures will be posted publicly on a quarterly and annual basis.



### PM3 | Intake & Investigation

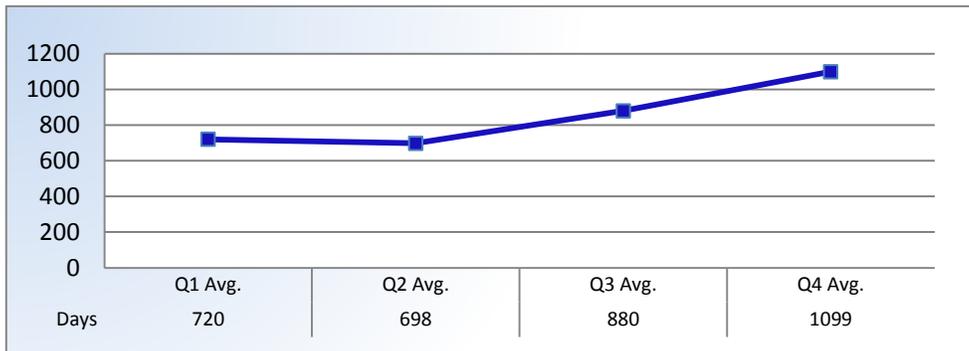
Average cycle time from complaint receipt to closure of the investigation process. Does not include cases sent to the Attorney General or other forms of formal discipline.



**Target Average: 180 Days Annual Average: 62 Days**

### PM4 | Formal Discipline

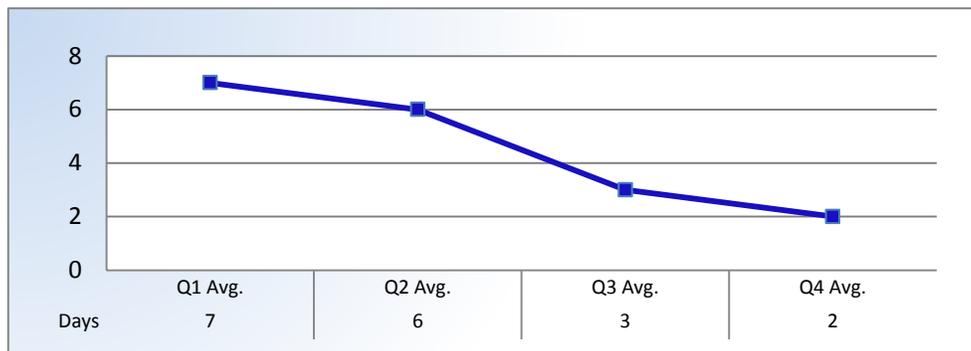
Average number of days to complete the entire enforcement process for cases resulting in formal discipline. (Includes intake and investigation by the Board and prosecution by the AG).



**Target Average: 540 Days Annual Average: 813 Days**

### PM7 | Probation Intake

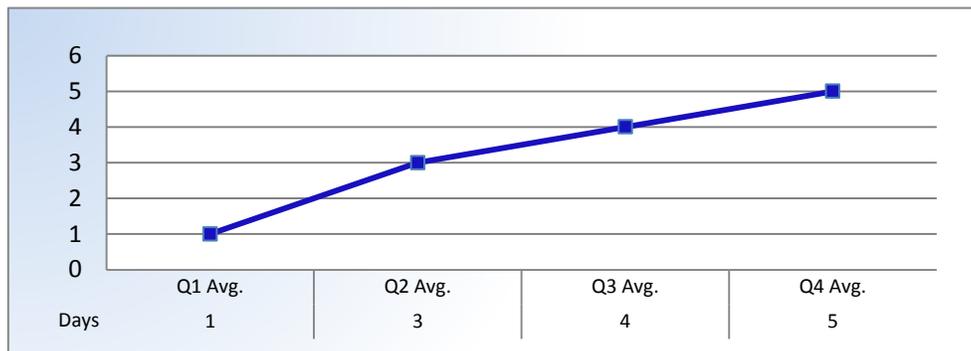
Average number of days from monitor assignment, to the date the monitor makes first contact with the probationer.



**Target Average: 5 Days**

### PM8 | Probation Violation Response

Average number of days from the date a violation of probation is reported, to the date the assigned monitor initiates appropriate action.



**Target Average: 15 Days**

PMs 5 and 6 have been omitted as they are no longer used.


**DEPARTMENT OF CONSUMER AFFAIRS**

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


**Attachment 2**
**2. Enforcement Resources to Adequately Staff Investigations**

For this principle, NASBA Enforcement Guidelines addresses four main sections: adequate staff; factors that may warrant modifications to staffing ratios, qualifications and training of investigators; and sufficient funding to handle prosecuting, especially against a big firm.

**NASBA Enforcement Guidelines**

**General Findings:** Both consumers and licensees have an interest in seeing complaints processed expeditiously, with a board enjoying adequate enforcement resources to ensure a fair and efficient process. Generally, the appropriate level of enforcement resources in a given jurisdiction is a function of the size of the jurisdiction's licensee population, and the number and nature of complaints typically handled by that jurisdiction. A board with 70,000 licensees will need a much more robust investigative unit with more personnel, but a board with 1,500 licensees may be able to utilize board members with specialized knowledge to handle investigations. Overall, 33 jurisdictions have less than 10,000 licensees ("small" jurisdictions); 13 jurisdictions have 10,000-20,000 licensees ("mid-size"); and nine have more than 20,000 licensees ("large"). In instances where the size of a jurisdiction's licensee population has a direct bearing on what should be considered a "guiding principle of enforcement" (e.g. setting appropriate staff levels and training), separate targets are suggested below for small, mid-size and large jurisdictions. In determining adequate staffing resources a board should routinely evaluate staffing levels to ensure that the appropriate number of staff are assigned to the right positions and at the right time. A board should evaluate their respective program needs, taking into consideration workload projections and any new anticipated workload over the coming years (possibly as a result of law or rule changes). When evaluating staffing workload, a board should consider identified core tasks to complete investigations, general duration of time to complete the tasks, and the number of staff presently assigned to handle investigation. Based on this evaluation, a board should determine if any overages or shortages in workload exists and seek to align staffing resources accordingly.

a. Adequate staff resources to handle investigations in a timely manner. Factors include:

- i. Ratio of CPA licensees to investigators
  1. Small jurisdictions – 10,000:1\*
  2. Mid-size jurisdictions – 20,000:1\*
  3. Large jurisdictions – 30,000:1\*

\*It was difficult to determine an exact ratio with regard to the number of investigators potentially available for assignment to a case because many boards rely on a pool of investigators to staff

## Enforcement Resources to Adequately Staff Investigations

Page 2 of 9

complaints. Pools can range from 2 to 25 and we were unable to ascertain specific pool numbers from most jurisdictions. In an effort to provide some concrete guidance we relied on the assumption that all pools were comprised of 2 investigators. As a result, the actual number of investigators available in most jurisdictions would be much higher than those indicated above.

ii. Ratio of investigators to open complaints

1. Small jurisdictions – 1:90\*\*
2. Mid-size jurisdictions – 1:125\*\*
3. Large jurisdictions – 1:150\*\*

\*\*It was difficult to determine an exact ratio with regard to the number of investigators potentially available for assignment to a case because many boards rely on a pool of investigators to staff complaints. Pools can range from 2 to 25 and we were unable to ascertain specific pool numbers from most jurisdictions. In an effort to provide some concrete guidance we relied on the assumption that all pools were comprised of 2 investigators. As a result, the actual number of investigators available in most jurisdictions would be much higher than those indicated above.

### CBA Comparison

The CBA's Enforcement Program is comprised of 43 fulltime (with a combination of permanent and limited-term) staff members divided among five units: two Technical Investigations Units, a Non-Technical Investigations Unit, a Discipline and Probation Monitoring (DPM) Unit, and a Criminal Offender Record information (CORI) Unit.

Below is a breakdown of the units and their respective responsibilities.

#### Technical Investigations Units

The Technical Investigations Unit consists of two Supervising Investigative CPAs and 14 fulltime Investigative CPAs (ICPA). The Technical Investigations Units staff conduct the most complex investigations, which include investigations related to professional standards, gross negligence, etc.

#### Non-Technical Investigations Unit

The Non-Technical Investigations Unit consists of one Staff Services Manager, four and one-half full-time Associate Governmental Program Analysts (AGPA or Enforcement Analysts). The Non-Technical Investigations Unit staff conduct the less complex investigations, which include investigations that are generally administrative in nature such as continuing education violations, unregistered accounting firms, practice without a permit, unlicensed practice, etc.

#### DPM Unit

The DPM Unit consists of seven fulltime staff members ranging from senior-level analyst to clerical and support staff. The DPM Unit staff provide assistance with

## **Enforcement Resources to Adequately Staff Investigations**

Page 3 of 9

program support activities such as issuing citations and fines, referring investigations to the AG's Office, probation monitoring, and monitoring compliance with the mandatory peer review program.

The DPM Unit also provides assistance to enforcement program committees including the Enforcement Advisory Committee (EAC), Peer Review Oversight Committee, and Enforcement Program Oversight Committee (EPOC).

### CORI Unit

The CORI Unit was established for a limited three-year period and consists of seven fulltime staff members. The CORI Unit staff receive, evaluate, and investigate criminal conviction information. The CORI Unit is limited term as the primary work it performs relates to monitoring the retroactive fingerprint requirement. The majority of this work has been forecasted to be completed over a 36-month period.

CBA management routinely evaluates staffing levels to ensure that each respective unit and division maintains the appropriate number of staff, assigned to the right positions, and at the right time. For the CBA Enforcement Division, management evaluate their respective program needs, taking into consideration workload projections and any new programs that will be implemented.

In California when evaluating most staffing workload, rather than using ratios to justify the need for staffing resources, justifications are compiled using identified core tasks, duration of time to complete the tasks, and the number of staff assigned to the unit. These workload justifications look to identify overall workload and resource needs and identify any shortages and overages. As part of these justifications, CBA management does include projections for future year workloads.

For context purposes in assessing the ratio of licensees to investigators and investigators to open complaints, the CBA has approximately 97,900 licensees and receives approximately 3,000 complaints per fiscal year. The CBA has 16.5 fulltime, permanent investigators to work its inventory. Using these numbers, the ratio of licensees to investigators would be 5,933:1, and the ratio of investigators to open complaints would be 1:182.

### **NASBA Enforcement Guidelines**

b. Factors that may warrant modification (up or down) to such ratios:

- i. Ratio of administrative complaints to practice complaints – history of practice claims in a particular jurisdiction would warrant more investigators per licensee. Administrative complaints are typically less complicated and would include violations like failure to renew, failure to obtain CPE (“Administrative Complaints”). Practice complaints are generally more complex and would include violations such as failure to follow standards, failure to follow the code of conduct and actions involving dishonesty or fraud (“Practice Complaints”).

## Enforcement Resources to Adequately Staff Investigations

Page 4 of 9

- ii. Ratio of complaints involving firms with offices in multiple states versus smaller firms with local offices. The prevalence of complex cases, such as cases against the auditors in Enron and against big firms that involve representation by outside law firms may require an increase in the ratio of investigators to licensees, to handle the added workload associated with periodic complex cases.

### CBA Comparison

The CBA does maintain both technical and non-technical resources on staff to perform investigations. Prior to 2009, the CBA only used technical resources (ICPAs) to perform investigations, whether the violations were administrative or practice-based in nature. In 2009, the CBA's newly hired Executive Officer restructured the Enforcement Division to add a group of non-technical investigators (Enforcement Analysts). These positions focus on investigations that are administrative in nature, such as continuing education violations, unlicensed practice, unregistered accountancy firm name, etc.

Again, previously noted, the CBA does not use ratios in determining staffing levels, but, instead, relies upon workload justifications to assess the needs of the various units. As workload increases to volumes that cannot be handled by the present staffing levels, the CBA will submit requests to the Legislature for authorization to increase staffing. Similarly, as workload begins to decrease, the CBA will submit requests to the Legislature to eliminate positions, oftentimes referred to as a negative budget change proposal.

### NASBA Enforcement Guidelines

- c. Qualification and training of investigators
  - i. Large, mid-size and small accountancy boards should all seek to utilize CPAs, law enforcement, board staff, or other individuals with accounting or investigative training (such as the Investigator Training Series identified in Section 2 (c)(iii) below or the training offered by the Council on Licensure, Enforcement and Regulation (CLEAR)) as an investigator whenever possible;
  - ii. Encourage investigative to attend investigative training seminars such as those hosted by CLEAR;
  - iii. Encourage investigative staff to complete the Investigative Training Series on [NASBA.org](http://NASBA.org)
  - iv. Boards should establish and follow a process for determining appropriate utilization of CPA investigators and or CPA board members or staff and non-CPA investigators, which considers whether the case involves an Administrative Complaint or involves a Practice Complaint.
  - v. Boards should utilize subject matter experts for complex investigations involving highly technical areas and standards, such as ERISA, Yellow Book, cases involving complicated tax issues, and fraud.
    1. Work with NASBA to identify a means of obtaining the necessary resources if costs are prohibitive to boards

## Enforcement Resources to Adequately Staff Investigations

Page 5 of 9

2. Use NASBA pool of available expert witnesses, if needed, to address complex issues, such as those items referenced in subsection (v) above
3. Referral to a board member with expertise that is case specific
  - a. In such cases, the Board member should recuse himself/herself from further participation in any formal disciplinary action in the specific matter

### CBA Comparison

The CBA uses a mixture of resources to perform and complete its investigations. On staff, the CBA has both technical (ICPA) and non-technical resources (Enforcement Analysts) to perform the vast majority of its investigations. For matters which the CBA may not possess the necessary expertise to fully investigate, the CBA engages outside expert consultants via a contract. For certain matters, especially those related to unlicensed practice, the CBA will engage Department of Consumer Affairs' (DCA) Division of Investigations (DOI) to assist in handling a case. Certain staff within DCA's DOI carry a Peace Officer status.

Lastly, the Legislature authorized the CBA's establishment of the EAC. This committee is comprised of CPAs working in the profession and practice in a broad range of services. These individuals are volunteers that are appointed by and serve at the pleasure of the CBA. The EAC meets approximately five times yearly (January, April, July, October, December).

The CBA requires its investigators, whether ICPA or Enforcement Analyst, to attend two mandatory training seminars. The first training is a three-day seminar developed by The Counsel on Licensure, Enforcement and Regulation titled "National Certified Investigator/Inspection Training – Basic Program." The seminar is an introductory training and certification program in investigations and inspection techniques and procedures. The seminar covers: professional conduct, principles of administrative law and the regulatory process, investigative process, principles of evidence, evidence collection, interview techniques, report writing, inspections and inspection procedures, and testifying.

The second mandatory training is completion of the DCA's Enforcement Academy. The DCA Enforcement Academy is a weeklong program that covers: an enforcement process overview, DCA's DOI, document and evidence gathering, compliance and field inspections/investigations, enforcement and disciplinary actions, and probation monitoring.

The CBA also has ad hoc training sessions. For example over the past two years, the CBA has invited the assigned Deputy Attorney General liaison to the CBA to train investigators on case prosecution, testifying, and expert witness testifying.

## Enforcement Resources to Adequately Staff Investigations

Page 6 of 9

As part of the ICPAs' minimum qualifications for continued appointment to their respective positions, they must maintain an active license. This requires that they complete a minimum of 80 hours of continuing education (CE) biennially. The training completed by the ICPAs is focused on maintaining and increasing their technical skills in the various areas of public practice.

Lastly, every year, management meets with staff to provide them with individual development plans designed to discuss performance evaluations and assist staff grow in their State careers. This is a collaborative effort and oftentimes results in training and other activities that will assist staff in continuing to meet and exceed the job expectations and lay the foundation for future career goals.

As for NASBA's Investigator Training Series, this six-part series covers: complaint process; investigate process; gathering documentation; interviewing techniques; report writing; and expert witness. The series is delivered via webcast and lasts approximately one hour. All CBA investigative staff are scheduled to complete the series by the end of June 2015.

Pertaining to establishing a process for determining appropriate use of CPA investigators and non-CPA investigators regarding administrative and practice complaints, as noted earlier, the CBA maintains both technical (ICPAs) and non-technical (Enforcement Analysts) on staff to perform its investigations. As a general practice, investigations that are practice-based are assigned to the ICPAs, while cases that are administrative in nature are assigned to the Enforcement Analysts.

As for the usage of subject matter experts for complex investigation, these types of investigations would be assigned exclusively to the ICPAs. The CBA requires that for entry into the classification of ICPA, individuals have knowledge of:

- Current professional accounting standards and pronouncements including Generally Accepted Auditing Standards, Generally Accepted Accounting Principles, Statement on Standards for Accounting and Review Services, Financial Accounting Standards Board, and Governmental Accounting Standards Board and Federal and State tax codes as applied to individuals and commercial entities in a variety of industries.
- Practice, policies, and procedures of certified public accounting firms, the Securities and Exchange Commission and the Public Company Accounting Oversight Board.
- Work paper techniques applicable to reviews, financial, compliance, operational, and management audits of government and commercial entities.
- Review procedures used to assess the quality and scope of work performed by CPA on reviews and audits of government and commercial entities.
- The California Accountancy Act, California Board of Accountancy rules and regulations, and standards of evidence promulgated by the Attorney General's Office.

## Enforcement Resources to Adequately Staff Investigations

Page 7 of 9

Due to the complexity and magnitude of certain investigations, the CBA may secure and use expert consultants to provide expertise and review of casework for matters involving unprofessional conduct, incompetence, fraudulent action, or other unlawful activities. The use of expert consultants may also extend to testifying in administrative and judicial hearings. Expert consultants' services may include, but are not limited to, reviewing and analyzing records, preparing a report of the findings, and providing testimony via deposition and/or trial, if necessary.

As for referring matter to a board member, the CBA does not employ such a practice. If it did, it would require the CBA member who participated in any aspect of the investigation to recuse him/herself from any deliberations and final action on the matter. Instead, as noted previously, the Legislature has authorized the CBA the ability to establish the EAC. This 13-member body is authorized to provide advice and assistance related to the CBA's investigative functions. Some of the functions that the EAC assists with as part of the investigative process include: participating in investigative hearings, reporting its findings from an investigation from an investigation or hearing to the CBA or its Executive Officer, and reviewing and providing technical assistance on open investigations.

The individuals appointed to the EAC possess a wide-range of knowledge in the public accounting profession and come from all sizes of accounting firms. As part of its appointment process, the CBA takes special care to ensure that it has sufficient knowledge across a board range of services, which include: audit, review, and compilation; taxation; consulting; litigation support; forensic accounting; and business management.

While CBA members do not actively participate in any of the investigative elements of cases, the CBA has established a standing committee to oversight its Enforcement Program. The EPOC is comprised of seven CBA members appointed yearly by the CBA President. The purpose of the EPOC is to assist the CBA in the consideration of issues relating to the Enforcement Program by:

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

The EPOC meets as needed throughout the year, or as directed by the CBA President.

## Enforcement Resources to Adequately Staff Investigations

Page 8 of 9

### NASBA Enforcement Guidelines

- d. Boards should be able to access funds in a timely manner to handle a case against a big firm, as demand arises, either through an appropriation process, the board, the umbrella agency, or the prosecuting agency.

### CBA Comparison

The CBA is a special fund agency, with the vast majority of its funding coming from licensing fees. A small portion of the CBA's funding comes from its citation and fine program and administrative penalties assessed as part of certain disciplinary matters. For fiscal year (FY) 2014/15, the CBA has an authorized budget of \$13,776,062. Approximately \$6.7 million, or 49 percent, is allocated to the CBA's Enforcement Program.

While the CBA is required to not expend in excess of its budgeted authority, the Legislature has established in Business and Professions Code (BPC) section 5025.2 a unique provision to allow the CBA the ability to obtain an additional \$2 million for litigation and enforcement activities in any given fiscal year. The Legislature added BPC section 5025.2 in 2004. The CBA must have sufficient funding in the Accountancy Fund Reserve to cover the additional \$2 million in expenditures. The CBA is projected to end FY 2014/15 with \$6.2 million in its reserves, which equates to approximately 5.4 months in reserve.<sup>1</sup>

### Staff's Observations

Staff believes that the CBA enforcement practices meets the guiding principle of maintaining enforcement resources to adequately staff investigations outlined in the NASBA Enforcement Guidelines.

Staff believes, however, that the ratios outlined in sections (a)(i) and (ii) do not provide an effective way to determine adequate staffing resources. A more effective and comprehensive methodology for assessing adequate resource levels is reflected in the process presently used by the CBA, which is also captured in the concluding statements of the NASBA Enforcement Guidelines General Findings for this section.

Staff believes that boards should routinely review their respective workloads, regardless of licensee population size, and should base assessments of these workloads and any anticipated workload increases and decreases. Boards, similar to the steps taken by the CBA, should understand the identified core tasks to complete investigations, general duration of time to complete the tasks, and the number of staff presently assigned to handle investigations. Based on this evaluation, a board should determine if any overages or shortages in workload exists and seek to align staffing resources accordingly.

---

<sup>1</sup> At its March 2015 meeting, the CBA initiated a rulemaking to restore the license renewal fee to \$200. This will return the CBA's reserves to approximately \$17.8 million by FY 2019/20, which equates to approximately 14 months in reserve.

## **Enforcement Resources to Adequately Staff Investigations**

Page 9 of 9

The primary ratio the CBA uses for managing its resources relates to the caseload carried by each investigator. Presently, the CBA assigns each investigator a caseload of approximately 25 cases.

**DEPARTMENT OF CONSUMER AFFAIRS**

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

**Attachment 3****3. Case Management**

This section focuses on the process used when managing investigations, whether the complaints are administrative or practice-based in nature, monitoring other agencies disciplinary actions, and probation monitoring.

**NASBA Enforcement Guidelines**

**General Findings:** The volume of complaints considered by a board will also have a bearing regarding case management for a particular board. For example, a board handling 3,000 complaints a year typically should have a system in place to prioritize those cases based upon the potential for harm, while a board receiving only 1-3 complaints will not need a prioritization system because each complaint can receive immediate attention. If the number of complaints received by board requires prioritization in order to adequately address all complaints and best allocate board resources to achieve maximum protection of the public, then such jurisdiction should identify cases for potential to cause greatest harm, or offenses that are indicators of problems that could lead to such harm and adopt procedures to manage Administrative Complaints by handling them in a manner similar to that outlined below in Section 3(a) and Practice Complaints by handling them in a manner similar to that outlined below in Section 3(b).

**CBA Comparison**

The CBA Enforcement Program reviews and prioritizes cases using the following categories: high, standard, actionable.

- High – These are cases/complaints in which the CBA believes ongoing consumer harm is present and, therefore, the promptness of the investigation is paramount. It is as part of these cases/complaints that the CBA evaluates whether to seek an Interim Suspension Order or to recommend that the courts take action under Penal Code section 23.<sup>1</sup>
- Standard – These are cases/complaints that do not pose an immediate threat of harm to consumers, unlicensed activity not posing an immediate threat of harm to consumers, fraud, and making false/misleading statements, such as matters referred from outside sources.

---

<sup>1</sup> Interim Suspension Orders allow for a board or administrative law judge (sitting alone) to issue an interim order suspending a licensee or imposing license restrictions, including but not limited to, mandatory biological fluid testing, supervision, or remedial training. Penal Code section 23 allows a board to make recommendations regarding specific conditions of probation, or provide any other assistance necessary to promote the interests of justice and protect the interests of the public, or may be ordered by the court to do so, if the crime charged is substantially related to the qualifications, functions, or duties of a licensee. This recommendation is made to the court.

## Case Management

Page 2 of 5

- Actionable – These are cases/complaints with only minimal investigation necessary and generally result in the issuance of citations and fines. Examples of these types of cases/complaints include failing to respond to CBA inquires and continuing education (CE) deficiencies.

### NASBA Guidelines

- a. Administrative Complaints involving matters of licensing deficiencies such as, failure to timely renew or obtain CPE, improper firm names, other administrative matters and certain first-time misdemeanor offenses, generally pose a lesser threat to the public and as such may be processed as follows
  - i. Attorney, Executive Director, and/or qualified staff review informal matters
  - ii. Cases can be closed based on voluntary compliance
  - iii. Informal conference may be scheduled to assist in reaching a settlement or if there is non-compliance with an agreed resolution
- b. Practice Complaints generally involving matters of incompetence, dishonesty, violation of any rule of professional ethics or professional conduct, failing to timely complete an engagement, failure to communicate, criminal convictions, breach of fiduciary duty or fraud, disclosing confidential information pose a greater threat to the public and as such are generally processed as follows:
  - i. Summary of investigation is reviewed by Attorney, Executive Director, appointed Board member, or Complaint Committee (depending upon board structure)
  - ii. Further investigation may be requested
  - iii. Information Conference may be scheduled to aid settlement
  - iv. Upon determination of a violation, corrective (remedial) or disciplinary action is taken (either by consent agreement or proceeding to formal hearing) upon approval of the Board

### CBA Comparison

The CBA employs a consistent and comprehensive process for all investigations into violations of the California Accountancy Act and CBA Regulations, whether administrative or practice-based in nature. Provided below is an overview of the CBA Enforcement Program process.

### Complaint Intake

Complaints are received from consumers, professional societies, law enforcement agencies, other government agencies, and internal referrals from other programs of the CBA or from CBA Committees. Staff also regularly monitors news and social media for information regarding licensees or unlicensed practice that may suggest violations of the California Accountancy Act and CBA Regulations. The CBA requests that complaints be submitted in writing. A complaint form is posted on the CBA website. A paper copy is provided upon request. Complainants may also submit a letter identifying the name of the licensee who is the subject of the complaint and explaining the issues of concern.

## Case Management

Page 3 of 5

Complaints are reviewed to establish jurisdiction and a potential violation of the California Accountancy Act, CBA Regulations, or both. Non-jurisdictional complaints are closed and referred to back to the originating source or to the appropriate agency.

### Investigative Process

Once jurisdiction has been established, the complaint is assigned to an investigator. The less complex investigations are conducted by Enforcement Analysts and generally involve unlicensed practice; CE deficiencies; criminal convictions; cancellation, suspension, revocation, or other right to practice as a CPA before any other governmental agency; and other administrative violations. The more complex investigations are conducted by Investigative CPAs (ICPA) and generally involve issues such as gross negligence, repeated negligent acts, embezzlement, and non-conformity with professional standards.

On an as needed basis, members from the Enforcement Advisory Committee and expert consultants are used to provide technical assistance. Prior to referring matters to the Attorney General's (AG) Office, an Investigative Hearing may be held where the licensee can provide testimony under oath.

The standard of proof is clear and convincing evidence which is a more rigorous standard to meet than the preponderance of the evidence standard, but less rigorous than the beyond a reasonable doubt standard.

At the conclusion of the investigation three outcomes are possible:

1. Closure: Investigation is closed without any enforcement action.
2. Citation: Pursuant to CBA Regulations section 95, a licensee may be issued a citation which may contain an order of abatement, an administrative fine, or both. The citation is in lieu of filing an Accusation. The fine amount cannot be less than \$100 or more than \$5,000. Additionally, pursuant to CBA Regulations section 87.5, a licensee may be ordered to complete CE that will contribute to the licensee's professional competence. The prescribed CE may be in addition to or as part of the 80 hours of CE required for license renewal. The vehicle for ordering the additional CE is a citation.
3. Discipline: A licensee may be disciplined for violating one or more of the causes listed in Business and Professions Code section 5100. Discipline is initiated by the filing of a pleading by the Executive Officer. Generally, two types of pleadings are prepared: 1) an Accusation to discipline licensees or 2) a Statement of Issues to deny licensure to applicants. Once the pleading is prepared by the AG's Office, it is returned to the CBA for signature by the Executive Officer and served on the licensee/applicant.

## Case Management

Page 4 of 5

### NASBA Enforcement Guidelines

- c. Boards should review discipline from other agencies, such as the DOL, SEC, PCAOB, and AICPA, included in the NASBA Quarterly Enforcement Report to determine whether discipline should give rise to disciplinary action by the Board.

### CBA Comparison

The CBA constantly monitors disciplinary actions taken by other agencies. The CBA has subscribed to an email notification system for the Securities and Exchange Commission (SEC) that provides weekly updates on actions taken. The CBA routinely receives hardcopy notices of actions taken by the SEC and Public Company Accounting Oversight Board. As part of its participation in Accountancy Licensee Database and CPAverify, the CBA receives weekly email notifications regarding action taken by other state boards of accountancy against licensees that maintain a license in California as well. The CBA also receives and reviews the NASBA Quarterly Enforcement Report. Lastly, the CBA receives complaints from Department of Labor and American Institute of CPAs after action is taken by these respective agencies.

### NASBA Enforcement Guidelines

- d. Boards should use a method of tracking probationary matters with assigned personnel (staff or investigator) to monitor compliance with probationary terms, such as follow up phone calls or other correspondence with licensee, require the licensee to appear in person at interview/meetings as directed by the Board to report on probation compliance, submitting written quarterly compliance reports, and or allowing a practice investigation upon request of the Board.

### CBA Comparison

When the CBA adopts a Decision and Order placing a licensee on probation, the licensee is assigned a probation monitor. The probation monitor reviews the terms and conditions of the probation and mails the licensee a packet of information that includes a summary of the terms and conditions and any forms he/she may need such as the Quarterly Report form (detailed below). The licensee is then scheduled for a probation orientation meeting with the probation monitor at which time the monitor will go over each term and condition of probation. The probation orientation is intended to ensure the licensee has a complete understanding of the requirements that must be met to successfully complete probation.

All licensees on probation are assessed a risk factor that takes into consideration the cause for discipline and potential for future consumer harm or violation of probation. In addition to the initial probation orientation, the probation monitor will meet with the licensee at various times during the term of probation, especially if there are continuing issues with compliance or the licensee is deemed high risk.<sup>2</sup> Practice investigations are another standard term of probation that helps to ensure that licensees are complying

---

<sup>2</sup> An example of an individual that may be classified as high risk would include an individual disciplined for gross negligence and repeated acts of negligence on an audit, where the final order allows the individual to continue to perform audits while serving out the term of probation.

## **Case Management**

Page 5 of 5

with all laws, rules, and professional standards in the performance of his/her work. A practice investigation consists of the probation monitor and an ICPA scheduling a visit to the licensee's place of business to review specific work papers. Although not every licensee will be required to undergo a practice investigation, a licensee considered to be high risk will be scheduled for at least one practice investigation during the probationary period.

The Probation Monitor reviews the licensee's probation file at least once per quarter. A licensee considered to be higher risk is tracked more closely with the probation monitor reviewing compliance with the terms and conditions of probation on a monthly basis. All licensees on probation are required to submit Quarterly Reports that detail any changes in the licensee's areas of practice and track compliance with the specific terms and conditions of the probation such as prescribed CE, notices to clients, payment of restitution, etc.

If a probationer is found to be out of compliance with any terms of the probation, including but not limited to submitting late certificates of completion for a CE requirement or restitution payments for investigation and prosecution costs, the licensee is mailed a letter detailing the violation(s) and a deadline to bring the licensee into compliance with the terms of the probation. If a licensee has a pattern of repeated violations or a singular egregious violation, a decision may be made to file a petition to revoke the probationer's license.

### **Staff's Observations**

Staff believes the CBA enforcement practices meets the principles associated with case management as outlined in the NASBA Enforcement Guidelines.

**DEPARTMENT OF CONSUMER AFFAIRS**

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

**Attachment 4****4. Disciplinary Guidelines****NASBA Enforcement Guidelines**

**General Findings:** Boards of accountancy are charged with protecting consumers by regulating the profession and disciplining licensees who fail to comply with the professional standards. Another goal of the disciplinary process is to increase adherence to licensing requirements and professional standards, thereby elevating the quality of services provided by the profession. Boards have the authority to impose discipline to revoke, suspend, condition, or refuse to renew a license or certificate for violation of rules and regulations or statutes of the accountancy law. Boards should strive to impose fair and consistent discipline against licensees who violate the accountancy laws or rules. These guidelines recommend penalties and conditions of probation for specific statutes and rules violated, as well as aggravating and mitigating circumstances that may necessitate deviation from the recommended discipline. The disciplinary guidelines are to be used by Board members, Board staff, and others involved in the disciplinary process. Boards may exercise discretion in recommending penalties, including conditions of probation, as warranted by aggravating and mitigating circumstances.

- a. The disciplinary process for boards of accountancy should consider offenses and their appropriate penalties, including the following major categories of offenses. Each determination should be fact specific and penalties may be escalated, reduced or combined depending on the Boards' consideration of the relevant mitigating and aggravating factors.
  - i. Grounds for Revocation
    1. Revocation of a license/permit by another agency or Board
    2. Failure to inform the Board of a failed peer review
    3. Fraud or deceit in obtaining a license
    4. Conviction of any crime substantially related to the qualifications, functions, or duties of a CPA (involving dishonesty or fraud)
    5. Dishonesty, fraud, or gross negligence in the practice of public accounting
    6. Commission of a felony
  - ii. Grounds for Suspension/Probation
    1. Failure to comply with board order
    2. Failure to meet firm ownership requirements
    3. Failure of a peer review
  - iii. Grounds for Monetary Fine/Penalty
    1. Unlicensed conduct
    2. Failure to comply with professional standards or code of conduct

## Disciplinary Guidelines

Page 2 of 5

3. Failure to renew
4. Failure to timely complete CPE or peer review
- iv. Grounds for Remediation
  1. Failure to comply with professional standards
  2. Issues regarding client records/ownership of work papers
  3. Issues regarding confidential disclosures
  4. Unlicensed conduct due to inadvertence (i.e., mobility, multiple designations, foreign accountants, etc.)
  5. Misleading name, title, or designation

### CBA Comparison

The Legislature requires the CBA, via Business and Professions Code section 5116(c), to adopt regulations to establish criteria for assessing administrative penalties based upon factors, including, but not limited to, actual and potential consumer harm, nature and severity of the violation, the role of the person in the violation, the person's ability to pay the administrative penalty, and the level of administrative penalty necessary to deter future violations of the California Accountancy Act.

To meet this requirement, the CBA has adopted *A Manual of Disciplinary Guidelines and Model Disciplinary Orders* (8<sup>th</sup> Edition, 2013) (Disciplinary Guidelines) (**Attachment 4a**). The CBA's Disciplinary Guidelines are incorporated by reference in CBA Regulations section 98. As a general rule, the CBA evaluates its Disciplinary Guidelines once every three years.

The Disciplinary Guidelines are designed for use by Administrative Law Judges, attorneys, CBA licensees, and others involved in the CBA's disciplinary process. The recommended penalties and conditions of probation are merely guidelines and the mitigating or aggravating circumstances and other factors may necessitate deviations.

For the Disciplinary Guidelines, the CBA evaluates the various California Accountancy Act and CBA Regulations code sections that licensees can potentially violate. For each code section, the CBA establishes minimum and maximum penalties, along with standard and optional probation terms when warranted. For many of the violations, the options range from correction of the violation/completion of continuing education (CE) to license revocation.

### NASBA Enforcement Guidelines

- b. Board may adopt specific factors to consider in assessing penalties, such as:
  - i. Permissible sanctions available to the Board, including those sanctions set forth in Section 4(a)
  - ii. Mitigating or aggravating factors
  - iii. Past disciplinary history or "trends" in licensee's behavior involving this Board or other agencies such as SEC, IRS, PCAOB and societies
  - iv. Likelihood of repeating the behavior
  - v. Potential for future public harm

## Disciplinary Guidelines

Page 3 of 5

- vi. Potential for licensee's rehabilitation
- vii. Extent of damages or injury due to licensee's behavior
- viii. Board sanctions with similar misconduct in other cases
- ix. Other enforcement actions or legal actions against licensee involving the conduct which is the subject of the current case (and impact of those actions/sanctions upon licensee)
- x. Whether action was a clear violation or was an area of law/rule subject to interpretation
- xi. Whether the individual or firm has already been sanctioned for the action by another state, PCAOB, SEC, or other enforcement body, and whether the enforcement body imposed sanctions consistent with sanctions the board would typically impose under the circumstances.

### CBA Comparison

The CBA relies primarily on its Disciplinary Guidelines in assessing penalties. As noted above, the Disciplinary Guidelines provide a range of penalties that staff assess against mitigating and aggravating factors (discussed in greater detail below) and against prior CBA actions for similar violations. This helps to ensure consistency and transparency in the enforcement activities undertaken by the CBA.

### NASBA Enforcement Guidelines

- c. Boards may consider the following mitigating factors in assessing penalties:
  - i. Passage of time without evidence of other professional misconduct
  - ii. Convincing proof of rehabilitation
  - iii. Violation was without monetary loss to consumers and/or restitution was made
  - iv. If multiple licensees are involved in the violation, the relative degree of culpability of the subject licensee should be considered

### CBA Comparison

As part of its Disciplinary Guidelines, the CBA includes a section titled "Evidence in Mitigation of Penalty," which outline mitigating circumstances to take into account in assessing any penalty. These include the following:

- The licensee has cooperated with the CBA's investigation, other law enforcement or regulatory agencies, and/or the injured parties.
- The passage of considerable time since an act of professional misconduct occurred with no evidence of recurrence or evidence of any other professional misconduct.
- Convincing proof of rehabilitation, including the factors in CBA Regulation section 99.1 as well as other relevant considerations.<sup>1</sup>
- Demonstration of remorse by the licensee.

---

<sup>1</sup> The rehabilitation criteria can be found on page 7 of the Disciplinary Guidelines in **Attachment 4a**.

## Disciplinary Guidelines

Page 4 of 5

- Recognition by licensee of his or her wrongdoing and demonstration of corrective action to prevent recurrence.
- Violation was corrected without monetary losses to consumers and/or restitution was made in full.
- If violation involved multiple licensees, the relative degree of culpability of the subject licensee should be considered.

### NASBA Enforcement Guidelines

- d. Boards may consider the following aggravating factors in assessing penalties:
- i. Failure to cooperate with Board in investigation of complaint and/or disciplinary process (providing requested documentation, timely responses, participating in informal conference)
  - ii. Violation is willful, knowingly committed and/or premeditated
  - iii. Case involved numerous violations of Board's statutes and rules, as well as federal or other state statutes
  - iv. History of prior discipline, particularly where prior discipline is for same or similar conduct
  - v. Violation results in substantial harm to client, employer and/or public
  - vi. Evidence that licensee took advantage of his client for personal gain, especially if advantage was due to ignorance, age or lack of sophistication of the client

### CBA Comparison

Similar to the mitigating factors, in the Disciplinary Guidelines, the CBA has included a section titled "Evidence of Aggravation of Penalty," which outlines aggravating circumstances to take into account when assessing. These include the following:

- Evidence that the violation was knowingly committed and/or was premeditated.
- Licensee has a history of prior discipline, particularly where the prior discipline is for the same or similar type of conduct.
- Licensee's actions resulted in financial damage to his or her clients or other consumers. The amount of loss may be an additional aggravating factor
- Violation of CBA probation.
- Failure to comply with a final citation order.
- Failure to comply with a notice to appear before the CBA or its designated representatives.
- Failure to comply with CE requirements as ordered by the CBA or its designated representatives pursuant to Section 87.5.<sup>2</sup>
- Evidence that the licensee has not cooperated with the CBA's investigation.
- Misappropriation of entrusted funds or other breach of fiduciary responsibility.
- Duration of violation(s).

---

<sup>2</sup> After investigation or hearing, CBA Regulations section 87.5, allows the CBA to prescribe additional specified CE.

## **Disciplinary Guidelines**

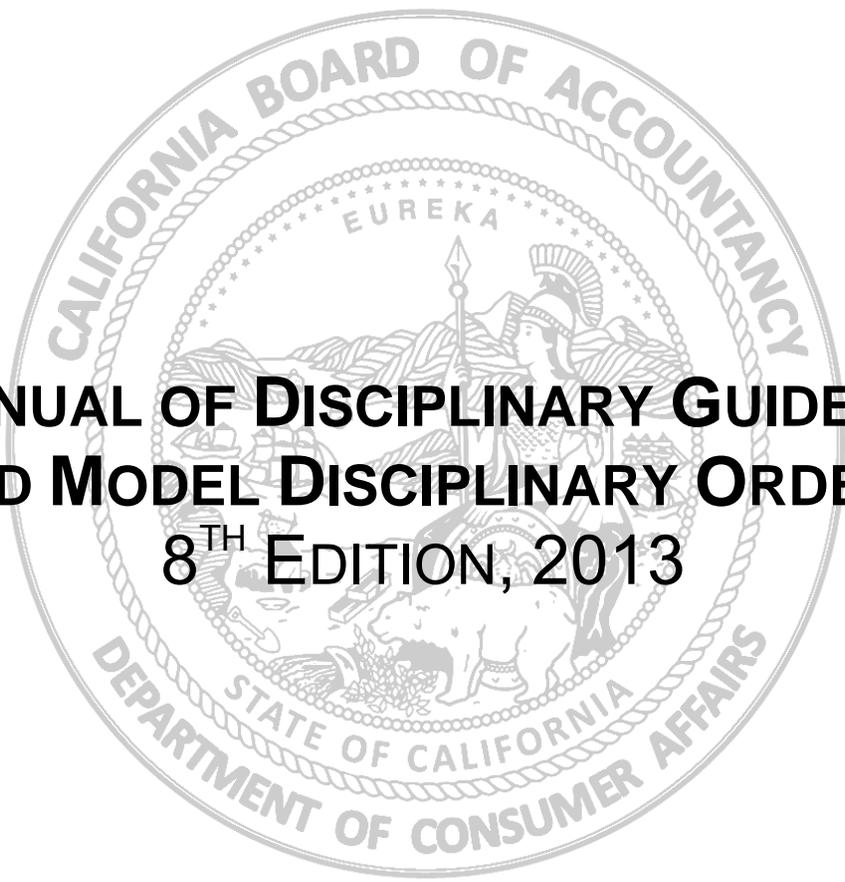
Page 5 of 5

- Evidence that the licensee knew or should have known that his or her actions could harm his or her clients or other consumers.
- Evidence that the licensee took advantage of his or her client for personal gain, especially if the licensee was able to take advantage due to the ignorance, age, or lack of sophistication of the client.

### **Staff's Observations**

Staff believes that the CBA enforcement practices meets the principles associated with disciplinary guidelines as outlined in the NASBA Enforcement Guidelines.

# CALIFORNIA BOARD OF ACCOUNTANCY

The seal of the California Board of Accountancy is a circular emblem. It features a central figure of Minerva, the Roman goddess of wisdom, wearing a helmet and holding a spear. The figure is surrounded by a wreath. Above the figure, the word "EUREKA" is written in a semi-circle. The outer ring of the seal contains the text "CALIFORNIA BOARD OF ACCOUNTANCY" at the top and "DEPARTMENT OF CONSUMER AFFAIRS" at the bottom. The inner ring contains "STATE OF CALIFORNIA".

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

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



# **DISCIPLINARY GUIDELINES AND MODEL DISCIPLINARY ORDERS**

## **I. INTRODUCTION**

The California Board of Accountancy (CBA) licenses the practice of accountancy in the State of California and may revoke, suspend, or refuse to renew any permit or certificate for violation of applicable statutes or regulations. The CBA examines applicants, sets education requirements, and may deny licensure and the authority to practice under practice privilege (California Business and Professions Code Section 5096 et seq.). The CBA may, by regulation, prescribe, amend, or repeal rules of professional conduct appropriate to the establishment and maintenance of a high standard of integrity and competency in the profession.

The CBA, through its Enforcement Division, assisted by its statutorily established Enforcement Advisory Committee, receives and investigates complaints; initiates and conducts investigations or hearings, with or without the filing of a complaint; and obtains information and evidence relating to any matter involving the conduct of California Public Accountants and Certified Public Accountants as well as any alleged violation of the California Accountancy Act. The California Accountancy Act and the regulations of the California Board of Accountancy provide the basis for CBA disciplinary action. (See California Business and Professions Codes Sections 5000 et seq., and Title 16 California Code of Regulations Sections 1 through 99.1.)

The expiration, cancellation, forfeiture, or suspension of a license, practice privilege, or other authority to practice public accountancy in California, or the voluntary surrender of a license by a licensee shall not deprive the CBA of the authority to proceed with an investigation, action, or disciplinary proceeding against the licensee or to render a decision suspending or revoking the license. (See California Business and Professions Code Section 5109.)

These disciplinary guidelines, designed for the use of Administrative Law Judges, attorneys, CBA licensees, and others involved in the CBA's disciplinary process, are revised from time to time. The guidelines cover model disciplinary orders, including factors to be considered in aggravation and mitigation; standard probationary terms; and guidelines for specific offenses. The guidelines for specific offenses are referenced to the statutory and regulatory provisions violated.

These disciplinary guidelines set forth recommended discipline for the violation of current statutes and regulations; includes a provision for community service; and provides additional guidance regarding disciplinary and model orders.

The CBA recognizes that these recommended penalties and conditions of probation are merely guidelines and that mitigating or aggravating circumstances and other factors may necessitate deviations, as discussed herein.

## II. GENERAL CONSIDERATIONS

The CBA requests that **Proposed Decisions** following administrative hearings include the following:

- a. Specific code sections violated with their definitions.
- b. Clear description of the violation.
- c. Respondent's explanation of the violation if he or she is present at the hearing.
- d. Findings regarding aggravation, mitigation, and rehabilitation where appropriate (See factors set forth below/Section 99.1).
- e. When suspension or probation is recommended, the CBA requests that the disciplinary order include terms within the recommended guidelines for that offense unless the reason for departure there from is clearly set forth in the findings and supported by the evidence.

If the respondent fails to appear for the scheduled hearing, such action shall result in a **default decision** to revoke license.

When the CBA, at a **reinstatement hearing**, denies a petitioner's request for reinstatement, the CBA requests that the Administrative Law Judge provide technical assistance in formulating language clearly setting forth the reasons for denial. Such a **statement** should include, for example, a statement on rehabilitation, including suggestions for further approaches by petitioner to demonstrate rehabilitation, where appropriate.

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

The CBA will consider **stipulated settlements** to promote cost effectiveness and to expedite disciplinary decisions if such agreements achieve its disciplinary objectives. Deputy Attorneys General should inquire as to respondent's interest in stipulated settlement promptly after receipt of a notice of defense. If stipulated settlement appears unlikely, the case should be set for hearing.

The CBA's policy is that all disciplinary actions will be published.

It is also the CBA's policy that matters resolved by stipulation include **cost recovery**.

The CBA's Executive Officer is authorized by statute to request an Administrative Law Judge, as part of any proposed decision in a disciplinary proceeding, to order the recovery of reasonable costs of investigation and prosecution (California Business and Professions Code Section 5107). This statute does not preclude the CBA from seeking recovery of costs through stipulations; thus, it does not change the CBA's policy of requesting and recovering costs

where appropriate in stipulated settlements. Restitution to victims and/or administrative penalties should not be reasons to reduce, eliminate, or stay full recovery of all reasonable costs of investigation and prosecution.

In stipulated decisions involving **revocation** (no revocation stayed), the order will generally include the requirement that respondent must reimburse the CBA for all reasonable costs of investigation and prosecution prior to or upon reinstatement of respondent's revoked certificate under Section 5115 of the California Business and Professions Code.

The period of **probation** is generally three years. During the probation period, licensees are required to appear in person at interviews/meetings as directed by the CBA or its designated representatives to report on probation compliance.

Where an actual **suspension** is imposed, the order shall include the requirement that respondent engage in no activities for which certification is required (see model disciplinary orders). In addition, the respondent shall relinquish the certificate in question to the CBA and shall notify clients regarding the suspended status of the certificate, if directed to do so by the CBA.

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

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

1. Evidence that the violation was knowingly committed and/or was premeditated.
2. Licensee has a history of prior discipline, particularly where the prior discipline is for the same or similar type of conduct.
3. Licensee's actions resulted in financial damage to his or her clients or other consumers. The amount of loss may be an additional aggravating factor.
4. Violation of CBA probation.
5. Failure to comply with a final citation order.
6. Failure to comply with a notice to appear before the CBA or its designated representatives.
7. Failure to comply with continuing education requirements as ordered by the CBA or its designated representatives pursuant to Section 87.5.
8. Evidence that the licensee has not cooperated with the CBA's investigation.
9. Misappropriation of entrusted funds or other breach of fiduciary responsibility.
10. Duration of violation(s).
11. Evidence that the licensee knew or should have known that his or her actions could harm his or her clients or other consumers.
12. Evidence that the licensee took advantage of his or her client for personal gain, especially if the licensee was able to take advantage due to the ignorance, age, or lack of sophistication of the client.

## **IV. EVIDENCE IN MITIGATION OF PENALTY**

The following are among mitigating circumstances that may be taken into account by Administrative Law Judges in providing for penalties in proposed decisions:

1. The licensee has cooperated with the California Board of Accountancy's investigation, other law enforcement or regulatory agencies, and/or the injured parties.
2. The passage of considerable time since an act of professional misconduct occurred with no evidence of recurrence or evidence of any other professional misconduct.
3. Convincing proof of rehabilitation, including the factors in Section 99.1 as well as other relevant considerations.
4. Demonstration of remorse by the licensee.
5. Recognition by licensee of his or her wrongdoing and demonstration of corrective action to prevent recurrence.
6. Violation was corrected without monetary losses to consumers and/or restitution was made in full.
7. If violation involved multiple licensees, the relative degree of culpability of the subject licensee should be considered.

## **V. REHABILITATION CRITERIA**

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

When considering the denial of a certificate or permit under Section 480 of the Business and Professions Code, the suspension or revocation of a certificate or permit or restoration of a revoked certificate under Section 5115 of the California Business and Professions Code, the CBA, in evaluating the rehabilitation of the applicant and his or her present eligibility for a certificate or permit, will consider the following criteria:

1. Nature and severity of the act(s) or offense(s);
2. Criminal record and evidence of any act(s) committed subsequent to the act(s) or offense(s) under consideration that could also be considered as grounds for denial, suspension, or revocation;
3. The time that has elapsed since commission of the act(s) or offense(s) referred to in subdivision (1) or (2);
4. The extent to which the applicant or respondent has complied with any terms of parole, probation, restitution, or any other sanctions lawfully imposed against the applicant or respondent;
5. If applicable, evidence of expungement proceedings pursuant to Section 1203.4 of the Penal Code;
6. Evidence, if any, of rehabilitation submitted by the applicant or respondent.

## **VI. ADMINISTRATIVE PENALTIES**

California Business and Professions Code Section 5116 et seq. allow the CBA to order any licensee or applicant for licensure or examination to pay an administrative penalty as part of any disciplinary proceeding. In matters that go through the administrative hearing process, the CBA's Executive Officer may request an Administrative Law Judge to impose an administrative penalty as part of any proposed decision.

The administrative penalty assessed shall be in addition to any other penalties or sanctions imposed on the licensee or other person, including but not limited to, license revocation, license suspension, denial of the application for licensure, or denial of admission to the licensing examination. When probation is ordered, an administrative penalty may be included as a condition of probation.

For any violation, with the exception of violation of subdivisions (a), (c), (i), (j), or (k) of Section 5100, any licensee may be assessed an administrative penalty of not more than \$5,000 for the first violation and not more than \$10,000 for each subsequent violation.

For violation of subdivisions (a), (c), (i), (j), or (k) of Section 5100, licensed firms may be assessed an administrative penalty of not more than \$1,000,000 for the first violation and not more than \$5,000,000 for any subsequent violation. The administrative penalty that may be assessed an individual licensee who violates these sections is limited to not more than \$50,000 for the first violation and not more than \$100,000 for any subsequent violation.

Administrative penalties may be assessed under one or more violations; however, the total administrative penalty shall not exceed the amount of the highest administrative penalty allowed.

The term "violation" used in Sections 5116.1, 5116.2, and 5116.3 is intended to include the total violations in the disciplinary proceeding. Accordingly, "first violation" refers to the respondent's first disciplinary action and "subsequent violations" refers to any subsequent disciplinary actions.

Cost recovery ordered under California Business and Professions Code Section 5107 should not be a reason to reduce or eliminate the amount of administrative fines.

The following criteria should be considered in assessing administrative penalties.

1. Nature and extent of actual and potential consumer harm.
2. Nature and extent of actual and potential harm to clients.
3. Nature and severity of the violation.
4. The role of the person in the violation.

5. The person's attitude toward his or her commission of the violations.
6. Recognition of wrongdoing.
7. Person's history of violations.
8. Nature and extent of cooperation with the CBA's investigation.
9. The person's ability to pay the administrative penalty.
10. The level of administrative penalty necessary to deter future violations.
11. Nature and extent to which the person has taken corrective action to ensure the violation will not recur.
12. Nature and extent of restitution to consumers harmed by violations.
13. The violations involve sanctions by other government agencies or other regulatory licensing bodies, i.e. Internal Revenue Service, Securities and Exchange Commission, and Public Company Accounting Oversight Board.
14. Other aggravating or mitigating factors.

## VII. DISCIPLINARY GUIDELINES

The offenses and penalties are listed chronologically by statute number in the Business and Professions Code and by regulation number in Title 16 of the California Code of Regulations. The number in brackets following each condition of probation refers to the model disciplinary order so numbered (See **Model Disciplinary Orders**). The probation terms listed under "if warranted" for each violation are to be considered, and imposed, if facts and circumstances warrant.

### **CALIFORNIA ACCOUNTANCY ACT: BUSINESS AND PROFESSIONS CODE, DIVISION 3, CHAPTER 1**

#### **ARTICLE 2**

##### **Section 5037(a) OWNERSHIP OF ACCOUNTANTS' WORKPAPERS**

Minimum Penalty - Continuing Education Courses [25]

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

##### CONDITIONS OF PROBATION:

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

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

(Reference Section 54.1)

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

Minimum Penalty - Continuing Education Courses [25]

Maximum Penalty - Revocation [1-2]

##### CONDITIONS OF PROBATION:

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

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

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

(Reference Section 68)

### **ARTICLE 3**

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

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

Minimum Penalty - Continuing Education Courses [25]

Maximum Penalty - Revocation [1-2]

**CONDITIONS OF PROBATION:**

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

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

**Section 5050(c) PRACTICE WITHOUT PERMIT;  
TEMPORARY PRACTICE; FOREIGN ACCOUNTANTS**

Applies to respondents licensed in a foreign country who are temporarily practicing in California and hold out as California licensees.

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

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

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

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

(Applies to respondent who assumes or uses the title certified public accountant, CPA, public accountant, or PA without having an appropriate permit to practice.)

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

**CONDITIONS OF PROBATION:**

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

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

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

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

**CONDITIONS OF PROBATION:**

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

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

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

(Reference Section 2)

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

Minimum Penalty - Continuing Education Courses [25]

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

CONDITIONS OF PROBATION:

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

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

**Section 5058.2 INACTIVE DESIGNATION**

Minimum Penalty - Correction of Violation

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

CONDITIONS OF PROBATION:

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

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

## ARTICLE 3.5

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

Minimum Penalty - Continuing Education Courses [25]

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

#### CONDITIONS OF PROBATION:

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

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

(Reference Section 5072)

### Section 5061      **COMMISSIONS**

Minimum Penalty - Continuing Education [25]

Maximum Penalty - Revocation [1-2]

#### CONDITIONS OF PROBATION:

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

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

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

Minimum Penalty - Continuing Education Courses [25]

Maximum Penalty - Revocation [1-2]

#### CONDITIONS OF PROBATION:

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

(Reference Section 5100(j))

**Section 5062.2      RESTRICTIONS ON  
ACCEPTING EMPLOYMENT WITH AN AUDIT CLIENT**

Minimum Penalty - Revocation stayed, 30 day suspension, 3 years probation [1-4]  
Maximum Penalty - Revocation [1-2]

CONDITIONS OF PROBATION:

- Required:
1. If revocation stayed [4], probation of 3 to 5 years
  2. Suspension [3]
  3. Standard Conditions of Probation [5-14]
- If warranted:
1. Ethics Continuing Education [20]
  2. Regulatory Review Course [21]
  3. Community Service – Free Services [29]
  4. Administrative Penalty not to exceed maximum set forth in Section 5116 [32]

**Section 5063      REPORTABLE EVENTS**

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

CONDITIONS OF PROBATION

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

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

(Reference Sections 59, 60, 61)

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

Minimum Penalty - Continuing Education Courses [25]

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

#### CONDITIONS OF PROBATION:

Required:

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

If warranted:

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

## **ARTICLE 4**

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

Minimum Penalty - Certificate canceled immediately and returned to the Board

Maximum Penalty - CPA Exam [23]

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

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

Minimum Penalty - Continuing Education Courses [25]

Maximum Penalty - Revocation of partnership/individual licenses [1-2]

CONDITIONS OF PROBATION:

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

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

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

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

Minimum Penalty - Continuing Education Course [25]

Maximum Penalty - Revocation [1-2]

CONDITIONS OF PROBATION:

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

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

**Section 5076(a) PEER REVIEW**

Minimum Penalty - Correction of Violation

Maximum Penalty - Revocation [1-2]

CONDITIONS OF PROBATION:

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

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

(Reference Sections 40, 41, 43)

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

Minimum Penalty - Correction of Violation

Maximum Penalty - Revocation [1-2]

CONDITIONS OF PROBATION:

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

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

(Reference Section 46)

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

Minimum Penalty - Continuing education [25] and/or require CPA or PA to develop standards for supervision, and implement a practice plan; permit practice investigation within 3 months to insure compliance [10]

Maximum Penalty - Revocation [1-2]

CONDITIONS OF PROBATION:

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

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

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

Minimum Penalty - Continuing Education [25] for California licensee partners or for licensee shareholders of corporation

Maximum Penalty - Revocation of partnership or corporate registration and individual licenses

CONDITIONS OF PROBATION:

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

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

(Reference Section 51.1)

**ARTICLE 5**

**Section 5081(a) REQUIREMENTS FOR ADMISSION TO CERTIFIED PUBLIC ACCOUNTANT EXAMINATION (ACTS DENYING ADMISSION TO EXAM)**

Minimum Penalty - Probationary conditions on initial license (if not yet licensed) or revocation, stayed with probation (if already licensed); reference appropriate subsection of Section 5100 for applicable provisions

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

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

**Section 5081(b)(c) REQUIREMENTS FOR ADMISSION TO CERTIFIED PUBLIC ACCOUNTANT EXAMINATION**

Minimum/Maximum Penalty - Denial of admission to examination, or revocation of license if issued.

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

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

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

Minimum Penalty - Correction of Violation

Maximum Penalty - Revocation [1-2]

CONDITIONS OF PROBATION:

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

## **ARTICLE 5.1: Practice Privilege**

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

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

#### CONDITIONS OF PROBATION:

- Required:            If revocation stayed [4], probation 3 to 5 years  
                               Standard Conditions of Probation [ 5-11,13,14]
- If warranted:       1. Suspension [3]  
                           2. Ethics Continuing Education [20]  
                           3. Regulatory Review Course [21]  
                           4. Administrative Penalty [32]

### **Section                COMPLY WITH RULES, LAWS, AND STANDARDS 5096(e)(2)**

- Minimum Penalty:   One year suspension [3]  
 Maximum                Revoke Practice Privilege [1-2]  
 Penalty:

#### CONDITIONS OF PROBATION:

- Required:            1. If revocation stayed [4], probation 3 to 5 years  
                               2. Suspension [3] (Section 5096(g)).  
                               3. Standard Conditions of Probation [5-11,13,14]
- If warranted:       1. Ethics Continuing Education [20]  
                           2. Regulatory Review Course [21]  
                           3. Administrative Penalty [32]

**Section 5096(e)(3) PRACTICE FROM AN UNAUTHORIZED OFFICE IN THIS STATE**

Minimum Penalty: One year suspension [3]  
Maximum Penalty: Revoke Practice Privilege [1-2]

**CONDITIONS OF PROBATION:**

Required: 1. If revocation stayed [4], probation 3 to 5 years  
2. Suspension [3] (Section 5096(g)).  
3. Standard Conditions of Probation [5-11,13,14]

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

**Section 5096(e)(5) COOPERATE WITH BOARD**

Minimum Penalty: One year suspension [3]  
Maximum Penalty: Revoke Practice Privilege [1-2]

**CONDITIONS OF PROBATION:**

Required: 1. If revocation stayed [4], probation 3 to 5 years  
2. Suspension [3] (Section 5096(g)).  
3. Standard Conditions of Probation [5-11,13,14]

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

**Section 5096(e)(6), (7), (8), & (9) FAILURE TO CEASE EXERCISING THE PRACTICE PRIVILEGE**

Minimum Penalty: One year suspension [3]  
Maximum Penalty: Revoke Practice Privilege [1-2]

**CONDITIONS OF PROBATION:**

Required: 1. If revocation stayed [4], probation 3 to 5 years  
2. Suspension [3] (Section 5096(g)).  
3. Standard Conditions of Probation [5-11,13,14]

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

**If it is determined that the failure to cease practice or provide the notice was intentional, that individual's practice privilege shall be revoked and there shall**

**be no possibility of reinstatement for a minimum of two years pursuant to Section 5096(g).**

**Section 5096(f) FAILURE TO NOTIFY THE BOARD/CEASE PRACTICE**

Minimum Penalty: One year suspension [3]  
Maximum Revoke Practice Privilege [1-2]  
Penalty:

CONDITIONS OF PROBATION:

Required: 1. If revocation stayed [4], probation 3 to 5 years  
2. Suspension [3] (Section 5096(g))  
3. Standard Conditions of Probation [5-11,13,14]

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

**If it is determined that the failure to cease practice or provide the notice was intentional, that individual's practice privilege shall be revoked and there shall be no possibility of reinstatement for a minimum of two years pursuant to Section 5096(g).**

**Section 5096(i) FAILURE TO FILE PRE-NOTIFICATION FORM**

Minimum Penalty: One year suspension [3]  
Maximum Revoke Practice Privilege [1-2]  
Penalty:

CONDITIONS OF PROBATION:

Required: 1. If revocation stayed [4], probation 3 to 5 years  
2. Suspension [3] (Section 5096(i)(2))  
3. Standard Conditions of Probation [5-11,13,14]

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

**If it is determined that the failure to cease practice or provide the notice was intentional, that individual's practice privilege shall be revoked and there shall be no possibility of reinstatement for a minimum of two years.**

**Section 5096.5 UNAUTHORIZED SIGNING OF ATTEST REPORTS**

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

Maximum Penalty: Revoke Practice Privilege [1-2]

CONDITIONS OF PROBATION:

Required: 1. If revocation stayed [4], probation 3 to 5 years  
2. Standard Conditions of Probation [5-11,13,14]

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

**Section 5096.12 FIRM PRACTICING WITHOUT A PRACTICE PRIVILEGE HOLDER**

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

Maximum Penalty: Revoke Practice Privilege [1-2]

CONDITIONS OF PROBATION:

Required: 1. If revocation stayed [4], probation 3 to 5 years  
2. Standard Conditions of Probation [5-11,13,14]

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

**ARTICLE 5.5**

**Section 5097 AUDIT DOCUMENTATION**

Minimum Penalty - Continuing Education Courses [25]

Maximum Penalty - Revocation [1-2]

CONDITIONS OF PROBATION:

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

If warranted: 1. Suspension [3] with/without stay [4]  
2. Supervised Practice [15]  
3. Restricted Practice [17]  
4. Library Reference Material [19]  
5. Ethics Continuing Education [20]  
6. Regulatory Review Course [21]  
7. Peer Review [22]  
8. CPA Exam [23]  
9. Continuing Education Courses [25]  
10. Samples - Audits, Review or Compilation [27]

11. Community Service – Free Services [29]
12. Notice to Clients [31]
13. Administrative Penalty not to exceed maximum set forth in Section 5116 [32]

(Reference Sections 68.2, 68.3, 68.4, 68.5)

## ARTICLE 6

**Section 5100            DISCIPLINE IN GENERAL,  
(including but not limited to that set forth in  
Subsections (a) through (l) of this Section)**

Minimum Penalty - Continuing Education Courses [25]

Maximum Penalty - Revocation [1-2]

**CONDITIONS OF PROBATION:**

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

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

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

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

Minimum Penalty - Revocation stayed. Actual suspension from practice 120 days. Three years probation [1-4]

Maximum Penalty - Revocation [1-2]

**CONDITIONS OF PROBATION:**

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

- If warranted:
1. Supervised Practice [15]
  2. Restitution [16]
  3. Restricted Practice [17]
  4. Engagement Letters [18]
  5. Ethics Continuing Education [20]
  6. Regulatory Review Course [21]
  7. CPA Exam [23] or Enrolled Agents Exam [24]
  8. Continuing Education Courses [25]
  9. Samples - Audit, Compilation or Review [27]

10. Prohibition from Handling Funds [28]
11. Community Service – Free Services [29]
12. Administrative Penalty not to exceed maximum set forth in Section 5116 [32]
13. Conditions as appropriate relating to physical or mental disability or condition [31-36]

**IN THE CASE OF A SINGLE MISDEMEANOR VIOLATION, TAILOR PROBATION TO CIRCUMSTANCES; ADJUSTING THE REQUIRED CONDITIONS ACCORDINGLY AND CHOOSING APPROPRIATE WARRANTED CONDITIONS FROM THE ABOVE LIST.**

**Section 5100(b) FRAUD OR DECEIT IN OBTAINING LICENSE/PERMIT/REGISTRATION**

Minimum Penalty - Revocation stayed with 180 days actual suspension and 3 years probation (if license was issued). Cannot apply for license for 12 months (if not yet licensed), and, if application is subsequently approved, conditional license with probation for 3 years.

Maximum Penalty - Revocation or application denied. [1-2]

**CONDITIONS OF PROBATION:**

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

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

**Section 5100(c) DISHONESTY, FRAUD, GROSS NEGLIGENCE, OR REPEATED ACTS OF NEGLIGENCE IN THE PRACTICE OF PUBLIC ACCOUNTANCY OR THE PERFORMANCE OF BOOKKEEPING**

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

Maximum Penalty - Revocation [1-2]

**CONDITIONS OF PROBATION:**

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

- If warranted:
1. Supervised Practice [15]
  2. Restitution [16]
  3. Restricted Practice [17]
  4. Ethics Continuing Education [20]
  5. Regulatory Review Course [21]

6. Peer Review [22]
7. CPA Exam [23]
8. Continuing Education Courses [25]
9. Samples - Audit, Review or Compilation [27]
10. Prohibition from Handling Funds [28]
11. Community Service – Free Services [29]
12. Notification to Clients [31]
13. Administrative Penalty not to exceed maximum set forth in Section 5116 [32]
14. Conditions as appropriate relating to physical or mental disability or condition [31-36]

**Section 5100(d) CANCELLATION, REVOCATION OR SUSPENSION BY ANY OTHER STATE OR FOREIGN COUNTRY**

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

Maximum Penalty - Revocation [1-2]

**CONDITIONS OF PROBATION:**

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

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

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

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

Minimum Penalty - Continuing Education Courses [25]

Maximum Penalty - Revocation [1-2]

**CONDITIONS OF PROBATION:**

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

- If warranted:
1. Suspension [3] with/without stay [4]
  2. Supervised Practice [15]
- Restricted Practice [17]
4. Library Reference Material [19]
  5. Ethics Continuing Education [20]
  6. Regulatory Review Course [21]
  7. Peer Review [22]
  8. CPA Exam [23]
  9. Samples - Audits, Review or Compilation [27]
  10. Community Service – Free Services [29]
  11. Notice to Clients [31]
  12. Administrative Penalty not to exceed maximum set forth in Section 5116 [32]

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

Section 5120 states "Any person who violates any of the provisions of Article 3 (commencing with Section 5050) is guilty of a misdemeanor, punishable by imprisonment for not more than six months, or by a fine of not more than one thousand dollars, or both." Whenever the Board has reason to believe that any person is liable for punishment under this article, the Board, or its designated representatives, may certify the facts to the appropriate enforcement officer of the city or county where the alleged violation had taken place and the officer may cause appropriate proceedings to be brought.

Violations of Article 3 include:

5050 and 5051	PRACTICE WITHOUT PERMIT/" PUBLIC ACCOUNTANCY" DEFINED
5055 and 5056	TITLE OF CERTIFIED PUBLIC ACCOUNTANT/ PUBLIC ACCOUNTANT
5058	USE OF CONFUSING TITLES OR DESIGNATIONS PROHIBITED
5060	NAME OF FIRM
5061	COMMISSIONS
5062	REPORT CONFORMING TO PROFESSIONAL STANDARDS

Minimum/Maximum Penalty - See specific statute/regulation violated for recommended penalty

**Section 5100(g) WILLFUL VIOLATION OF THE ACCOUNTANCY ACT, OR A RULE OR REGULATION PROMULGATED BY THE BOARD**

Minimum/Maximum Penalty - See specific statute or regulation violated for recommended penalty

**Section 5100(h) SUSPENSION OR REVOCATION OF THE RIGHT TO PRACTICE**

## **BEFORE ANY GOVERNMENTAL BODY OR AGENCY**

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

Maximum Penalty - Revocation [1-2]

### CONDITIONS OF PROBATION:

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

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

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

### **Section 5100(i) FISCAL DISHONESTY OR BREACH OF FIDUCIARY RESPONSIBILITY OF ANY KIND**

Minimum Penalty - Revocation stayed, 30 day suspension, 3 years probation [1-4]

Maximum Penalty - Revocation [1-2]

### CONDITIONS OF PROBATION:

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

- If warranted:
1. Supervised Practice [15]
  2. Restitution [16]
  3. Restricted Practice [17]
  4. Ethics Continuing Education [20]
  5. Regulatory Review Course [21]
  6. CPA Exam [23] or Enrolled Agents Exam [24]
  7. Continuing Education Courses [25]
  8. Prohibition from Handling Funds [28]
  9. Community Service – Free Services [29]
  10. Notice to Clients [31]

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

**Section 5100(j) KNOWING PREPARATION, PUBLICATION OR DISSEMINATION OF FALSE, FRAUDULENT, OR MATERIALLY MISLEADING FINANCIAL STATEMENTS, REPORTS, OR INFORMATION**

Minimum Penalty - Revocation stayed, 60 days suspension, 3 years probation [1-4]  
Maximum Penalty - Revocation [1-2]

CONDITIONS OF PROBATION:

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

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

**Section 5100(k) EMBEZZLEMENT, THEFT, MISAPPROPRIATION OF FUNDS OR PROPERTY, OR OBTAINING MONEY, PROPERTY OR OTHER VALUABLE CONSIDERATION BY FRAUDULENT MEANS OR FALSE PRETENSES**

Minimum Penalty - Revocation stayed, 90 day suspension, 3 years probation [1-4]  
Maximum Penalty - Revocation [1-2]

CONDITIONS OF PROBATION:

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

- If warranted:
1. Supervised Practice [15]

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

**Section 5100(l) DISCIPLINE, PENALTY, OR SANCTION BY THE PUBLIC COMPANY ACCOUNTING OVERSIGHT BOARD OR SECURITIES AND EXCHANGE COMMISSION**

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

Maximum Penalty - Revocation [1-2]

CONDITIONS OF PROBATION:

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

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

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

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

Minimum Penalty - Continuing Education Courses [25]

Maximum Penalty - Revocation [1-2]

CONDITIONS OF PROBATION:

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

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

**Section 5101      DISCIPLINE OF PARTNERSHIP**

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

Maximum Penalty - Revocation [1-2]

CONDITIONS OF PROBATION:

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

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

**Section 5104      RELINQUISHMENT OF CERTIFICATE OR PERMIT**

Minimum/Maximum Penalty - Revocation [1-2]

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

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

Maximum Penalty - Revocation [1-2]

**Section 5110(a)      ACTS CONSTITUTING CAUSE FOR BOARD'S DENIAL OF EXAM APPLICATION OR ADMISSION, VOIDANCE OF GRADES, OR**

## **DENIAL OF LICENSE APPLICATION OR REGISTRATION**

Minimum/Maximum Penalty - Denial of admission to examination, or revocation of license if issued.

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

## **ARTICLE 7**

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

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

## **ARTICLE 9**

### **Section 5152 CORPORATION REPORTS**

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

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

### **Section 5152.1 ACCOUNTANCY CORPORATION RENEWAL OF PERMIT TO PRACTICE**

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

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

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

Minimum Penalty - Continuing Education Courses [25]

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

### **CONDITIONS OF PROBATION:**

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

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



CONDITIONS OF PROBATION:

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

If warranted:

1. Supervised Practice [15]
2. Restitution [16]
3. Restricted Practice [17]
4. Engagement Letters [18]
5. Ethics Continuing Education [20]
6. Regulatory Review Course [21]
7. Administrative Penalty not to exceed maximum set forth in Section 5116 [32]
8. Conditions as appropriate relating to physical or mental disability or condition [31-36]

**CALIFORNIA BOARD OF ACCOUNTANCY  
REGULATIONS  
TITLE 16 CALIFORNIA CODE OF REGULATIONS**

**ARTICLE 1: GENERAL**

**SECTION 3            NOTIFICATION OF CHANGE OF ADDRESS**

Minimum Penalty - Continuing Education Courses [25]  
Maximum Penalty - 90 day Suspension [3]

**SECTION 5            OBSERVANCE OF RULES**

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

**CONDITIONS OF PROBATION:**

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

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

Note: Reference the specific regulation for appropriate discipline.

**ARTICLE 2: EXAMINATIONS**

**SECTION 8.2        REQUIREMENTS FOR  
ISSUANCE OF THE AUTHORIZATION TO TEST**

Minimum Penalty - Probationary conditions on initial license (if not yet licensed) or  
revocation, stayed with probation (if already licensed); reference  
appropriate subsection of Section 5100 for applicable provisions

Maximum Penalty - Denial of admission to examination or revocation of license if issued;  
Administrative Penalty not to exceed maximum set forth in Section 5116  
[32]

## **ARTICLE 3: PRACTICE PRIVILEGES**

### **SECTION 20            NOTIFICATION OF CHANGE OF INFORMATION FOR REGISTERED OUT-OF-STATE ACCOUNTING FIRMS**

Minimum Penalty:    Correction of Violation

Maximum                90 day Suspension [3]

Penalty:

#### CONDITIONS OF PROBATION:

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

If warranted:        1. Administrative Penalty [32]

## **ARTICLE 6: PEER REVIEW**

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

Minimum Penalty -    Correction of Violation

Maximum Penalty -    Revocation [1-2]

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

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

(Reference Section 5076(a))

### **SECTION 41            FIRM RESPONSIBILITIES**

Minimum Penalty -    Continuing Education Courses [25]

Maximum Penalty -    Revocation [1-2]

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

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

(Reference Section 5076(a))

## **SECTION 43      EXTENSIONS**

Minimum Penalty - Continuing Education Courses [25]

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

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

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

## **SECTION 44      NOTIFICATION OF EXPULSION**

Minimum Penalty - Correction of Violation

Maximum Penalty - Revocation [1-2]

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

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

## **SECTION 45      REPORTING TO BOARD**

Minimum Penalty - Correction of Violation

Maximum Penalty - Revocation [1-2]

CONDITIONS OF PROBATION:

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

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

(Reference Section 5076(a))

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

Applies to firms that receive a substandard peer review rating.

Minimum Penalty - Correction of Violation

Maximum Penalty - Revocation [1-2]

CONDITIONS OF PROBATION:

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

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

(Reference Section 5076(f))

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

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

Minimum Penalty - Correction of Violation

Maximum Penalty - Revocation [1-2]

CONDITIONS OF PROBATION:

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

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

## ARTICLE 9: RULES OF PROFESSIONAL CONDUCT

### SECTION 50 CLIENT NOTIFICATION

Minimum Penalty – Correction of Violation

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

#### CONDITIONS OF PROBATION

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

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

### SECTION 51 FIRMS WITH NONLICENSEE OWNERS

Minimum Penalty – Correction of Violation

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

#### CONDITIONS OF PROBATION

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

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

### SECTION 51.1 NOTIFICATION OF NON-LICENSEE OWNERSHIP

Minimum Penalty - Continuing Education [25] for California licensee partners or for licensee shareholders of corporation

Maximum Penalty - Revocation of partnership or corporate registration and individual licenses

#### CONDITIONS OF PROBATION:

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

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

(Reference Section 5079)

**SECTION 52        RESPONSE TO BOARD INQUIRY**

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

CONDITIONS OF PROBATION:

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

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

**SECTION 53        DISCRIMINATION PROHIBITED**

Minimum Penalty - Continuing Education Courses [25]  
Maximum Penalty - Revocation stayed, 3 years probation [1-2,4]

CONDITIONS OF PROBATION:

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

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

**SECTION 54.1        DISCLOSURE OF CONFIDENTIAL INFORMATION PROHIBITED**

Minimum Penalty - Continuing Education Courses [25]  
Maximum Penalty - Revocation stayed; 90 day suspension, 3 years probation [1-4]

CONDITIONS OF PROBATION:

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

If warranted:    1. Suspension [3]  
                     2. Supervised Practice [15]  
                     3. Ethics Continuing Education [20]  
                     4. Regulatory Review Course [21]  
                     5. Continuing Education Courses [25]

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

(Reference Section 5037)

**SECTION 54.2 RECIPIENTS OF CONFIDENTIAL INFORMATION**

Minimum Penalty - Continuing Education Courses [25]

Maximum Penalty - Revocation [1-2]

CONDITIONS OF PROBATION:

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

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

**SECTION 56 COMMISSIONS – BASIC DISCLOSURE REQUIREMENT**

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

Maximum Penalty – Revocation [1-2]

CONDITIONS OF PROBATION

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

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

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

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

Maximum Penalty – Revocation [1-2]

### CONDITIONS OF PROBATION

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

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

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

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

### CONDITIONS OF PROBATION:

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

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

### **SECTION 58            COMPLIANCE WITH STANDARDS**

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

### CONDITIONS OF PROBATION:

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

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

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

## **SECTION 59            REPORTING OF RESTATEMENTS**

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

### CONDITIONS OF PROBATION

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

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

(Reference Section 5063)

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

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

### CONDITIONS OF PROBATION

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

If warranted:        1. Suspension [3] with/without stay [4]  
                           2. Supervised Practice [15]  
                           3. Restricted Practice [17]  
                           4. Ethics Continuing Education [20]  
                           5. Regulatory Review Course [21]  
                           6. Continuing Education Courses [25]

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

(Reference Section 5063)

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

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

Maximum Penalty - Revocation [1-2]

### CONDITIONS OF PROBATION

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

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

(Reference Section 5063)

## **SECTION 62            CONTINGENT FEES**

Minimum Penalty - Correction of Violation

Maximum Penalty - Revocation [1-2]

### CONDITIONS OF PROBATION:

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

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

**SECTION 63            ADVERTISING**

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

CONDITIONS OF PROBATION:

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

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

**SECTION 65            INDEPENDENCE**

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

CONDITIONS OF PROBATION:

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

If warranted:        1. Suspension [3] with/without stay [4]  
                          2. Supervised Practice [15]  
                          3. Restitution [16]  
                          4. Restricted Practice [17]  
                          5. Engagement Letters [18]  
                          6. Ethics Continuing Education [20]  
                          7. Regulatory Review Course [21]  
                          8. Peer Review [22]  
                          9. CPA Exam [23]  
                          10. Samples - Audit, Review or Compilation [27]  
                          11. Administrative Penalty not to exceed maximum set forth in  
                              Section 5116 [32]

**SECTION 67            APPROVAL OF USE OF FICTITIOUS NAME**

Minimum Penalty - Correction of Violation  
Maximum Penalty - Revocation stayed, 90 day suspension, 3 years probation [1-4]

CONDITIONS OF PROBATION:

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

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

## **SECTION 68            RETENTION OF CLIENT'S RECORDS**

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

### CONDITIONS OF PROBATION:

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

- If warranted:
1. Suspension [3] with/without stay [4]
  2. Supervised Practice [15]
  3. Restitution [16]
  4. Restricted Practice [17]
  5. Engagement Letters [18]
  6. Ethics Continuing Education [20]
  7. Regulatory Review Course [21]
  8. Continuing Education Courses [25]
  9. Community Service – Free Services [29]
  10. Administrative Penalty not to exceed maximum set forth in Section 5116 [32]
  11. Conditions as appropriate relating to physical or mental disability or condition [31-36]

(Reference Section 5037)

## **SECTION 68.1        WORKING PAPERS DEFINED; RETENTION**

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

### CONDITIONS OF PROBATION:

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

- If warranted:
1. Suspension [3] with/without stay [4]
  2. Restitution [16]
  3. Restricted Practice [17]
  4. Engagement Letters [18]
  5. Ethics Continuing Education [20]
  6. Regulatory Review Course [21]
  7. Continuing Education Courses [25]

8. Community Service – Free Services [29]
9. Administrative Penalty not to exceed maximum set forth in Section 5116 [32]
10. Conditions as appropriate relating to physical or mental disability or condition [31-36]

## **SECTION 68.2 COMPONENTS OF AUDIT DOCUMENTATION**

Minimum Penalty - Continuing Education Courses [25]

Maximum Penalty - Revocation [1-2]

### CONDITIONS OF PROBATION:

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

- If warranted:
1. Suspension [3] with/without stay [4]
  2. Supervised Practice [15]
  3. Restricted Practice [17]
  4. Ethics Continuing Education [20]
  5. Regulatory Review Course [21]
  6. Peer Review [22]
  7. CPA Exam [23]
  8. Samples - Audits, Review or Compilation [27]
  9. Community Service – Free Services [29]
  10. Notice to Clients [31]
  11. Administrative Penalty not to exceed maximum set forth in Section 5116 [32]

(Reference Section 5097)

## **SECTION 68.3 RETENTION PERIOD FOR AUDIT DOCUMENTATION**

Minimum Penalty - Continuing Education Courses [25]

Maximum Penalty - Revocation [1-2]

### CONDITIONS OF PROBATION:

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

- If warranted:
1. Suspension [3] with/without stay [4]
  2. Supervised Practice [15]
  3. Restricted Practice [17]
  4. Library Reference Material [19]
  5. Ethics Continuing Education [20]
  6. Regulatory Review Course [21]

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

(Reference Section 5097)

#### **SECTION 68.4 CHANGES IN AUDIT DOCUMENTATION AFTER ISSUANCE OF REPORT**

Minimum Penalty - Continuing Education Courses [25]

Maximum Penalty - Revocation [1-2]

##### CONDITIONS OF PROBATION:

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

- If warranted:
1. Suspension [3] with/without stay [4]
  2. Supervised Practice [15]
  3. Restricted Practice [17]
  4. Library Reference Material [19]
  5. Ethics Continuing Education [20]
  6. Regulatory Review Course [21]
  7. Peer Review [22]
  8. CPA Exam [23]
  7. Samples - Audits, Review or Compilation [27]
  8. Community Service – Free Services [29]
  9. Notice to Clients [31]
  10. Administrative Penalty not to exceed maximum set forth in Section 5116 [32]

(Reference Section 5097)

#### **SECTION 68.5 AUDIT DOCUMENTATION RETENTION AND DESTRUCTION POLICY**

Minimum Penalty - Continuing Education Courses [25]

Maximum Penalty - Revocation [1-2]

##### CONDITIONS OF PROBATION:

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

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

3. Restricted Practice [17]
4. Library Reference Material [19]
5. Ethics Continuing Education [20]
6. Regulatory Review Course [21]
7. Peer Review [22]
8. CPA Exam [23]
9. Samples - Audits, Review or Compilation [27]
10. Community Service – Free Services [29]
11. Notice to Clients [31]
12. Administrative Penalty not to exceed maximum set forth in Section 5116 [32]

(Reference Section 5097)

## **SECTION 69            CERTIFICATION OF APPLICANT'S EXPERIENCE**

Minimum Penalty - Correction of Violation

Maximum Penalty - Revocation [1-2]

### CONDITIONS OF PROBATION:

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

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

## **ARTICLE 11: ACCOUNTANCY CORPORATION RULES**

### **SECTION 75.8            SECURITY FOR CLAIMS AGAINST AN ACCOUNTANCY CORPORATION**

Minimum Penalty - Correction of Violation

Maximum Penalty - Revocation [1-2]

### CONDITIONS OF PROBATION:

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

- If warranted:
1. Supervised Practice [15]
  2. Restitution [16]
  3. Restricted Practice [17]
  4. Ethics Continuing Education [20]

5. Regulatory Review Course [21]
6. Continuing Education Courses [25]
7. Samples - Audit, Review or Compilation [27]
8. Prohibition from Handling Funds [28]
9. Community Service – Free Services [29]
10. Notification to Clients [31]
11. Administrative Penalty not to exceed maximum set forth in Section 5116 [32]

## **SECTION 75.9      SHARES: OWNERSHIP AND TRANSFER**

Minimum Penalty - Correction of Violation

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

### CONDITIONS OF PROBATION:

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

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

## **SECTION 75.11(b) CERTIFICATION OF REGISTRATION; CONTINUING VALIDITY; NOTIFICATION OF NAME AND ADDRESS CHANGES**

Minimum Penalty - Correction of Violation

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

### CONDITIONS OF PROBATION:

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

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

## **ARTICLE 12: CONTINUING EDUCATION RULES**

### **SECTION 81(a)      CONTINUING EDUCATION REQUIREMENTS FOR RENEWING AN EXPIRED LICENSE**

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

CONDITIONS OF PROBATION

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

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

**SECTION 87 BASIC REQUIREMENTS (Continuing Education)**

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

CONDITIONS OF PROBATION

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

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

**SECTION 87.5 ADDITIONAL CONTINUING EDUCATION REQUIREMENTS**

Minimum Penalty - Correction of Violation  
Maximum Penalty - Revocation stayed, 3 years probation [1-2,4]

CONDITIONS OF PROBATION:

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

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

3. Continuing Education Courses [25]
4. Active License Status [26]
5. Samples - Audit, Review or Compilation [27]
6. Administrative Penalty not to exceed maximum set forth in Section 5116 [32]

**SECTION 87.6 RECORDS REVIEW  
CONTINUING EDUCATION REQUIREMENTS**

Minimum Penalty - Correction of Violation

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

CONDITIONS OF PROBATION:

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

If warranted:

1. Ethics Continuing Education [20]
2. Regulatory Review Course [21]
3. Continuing Education Courses [25]
4. Samples - Audit, Review or Compilation [27]
5. Administrative Penalty not to exceed maximum set forth in Section 5116 [32]

**SECTION 87.8 REGULATORY REVIEW COURSE**

Minimum Penalty - Correction of Violation

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

CONDITIONS OF PROBATION:

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

If warranted:

1. Ethics Continuing Education [20]
2. Continuing Education Courses [25]
3. Administrative Penalty not to exceed maximum set forth in Section 5116 [32]

**SECTION 89 CONTROL AND REPORTING**

Minimum Penalty - Correction of Violation

Maximum Penalty - Revocation [1-2]

CONDITIONS OF PROBATION:

Required:

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

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

## **SECTION 89.1      REPORTS**

Minimum Penalty - Correction of Violation

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

### CONDITIONS OF PROBATION:

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

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

## **SECTION 90            EXCEPTIONS AND EXTENSIONS**

Minimum Penalty – Continuing Education [25]

Maximum Penalty – Revocation [1-2]

### CONDITIONS OF PROBATION

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

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

## ARTICLE 12.5: CITATIONS AND FINES

### SECTION 95.4 FAILURE TO COMPLY WITH CITATION

Minimum Penalty - Compliance with Citation Abatement Order and/or Fine as issued

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

#### CONDITIONS OF PROBATION:

- Required:
1. Standard Conditions of Probation [5-14]
  2. Restitution [16]
  3. Compliance with Citation Abatement Order and/or Fine
- If warranted:
1. Administrative Penalty not to exceed maximum set forth in Section 5116 [32]

## **VIOLATION OF PROBATION**

Minimum penalty - Citation and Fine (13)

Maximum penalty - Vacate stay order and impose penalty that was previously stayed; and/or revoke, separately and severally, for violation of probation and/or for any additional offenses. [1-4]

California Code of Regulations Section 95 provides the authority for the Executive Officer to issue citations and fines from \$100 to \$5000 to a licensee for violation of a term or condition contained in a decision placing that licensee on probation.

The maximum penalty is appropriate for repeated **similar** offenses, or for probation violations indicating a cavalier or recalcitrant attitude. If the probation violation is due in part to the commission of additional offense(s), additional penalties shall be imposed according to the nature of the offense; and the probation violation shall be considered as an aggravating factor in imposing a penalty for those offenses.

## **UNLICENSED ACTIVITIES**

If any unlicensed individual or firm violates, or is suspected of violating, any of the following Business and Professions Code sections, the matter may be referred to the Division of Investigation and if the allegation is confirmed, to the District Attorney or other appropriate law enforcement officer for prosecution.

**Section 5050**  
**Section 5051**  
**Section 5055**  
**Section 5056**

**Section 5058**  
**Section 5071**  
**Section 5072**  
**Section 5088**

**Board Section 95.6 also provides the authority for the Executive Officer to issue citations and fines from \$100 to \$5000 and an order of abatement against any person defined in Business and Professions Code Section 5035 who is acting in the capacity of a licensee under the jurisdiction of the CBA.**

**Section 5120** provides that any person who violates any provisions of Article 3 is guilty of a misdemeanor and can be imprisoned for not more than 6 months or assessed a fine of not more than \$1,000 or both. Injunctions may be requested (see Section 5122 immediately following).

## **INJUNCTIONS**

Section 5122 provides that "Whenever in the judgment of the Board (or with its approval, in the judgment of the Enforcement Advisory Committee), any person has engaged, or is about to engage, in any acts or practices which constitute, or will constitute, an offense against this chapter, the Board may make application to the appropriate court for an order enjoining the

acts or practices, and upon showing by the Board that the person has engaged, or is about to engage, in any such acts or practices, an injunction, restraining order, or such other order that may be appropriate shall be granted by the court." This section applies to licensees and unlicensed persons.

## VIII. MODEL DISCIPLINARY ORDERS

1. **Revocation - Single Cause:**

\_\_\_\_\_ License No. \_\_\_\_\_ issued  
(Ex: Certified Public Accountant) (Ex: 00000)  
to respondent \_\_\_\_\_ is revoked.  
(Name)

2. **Revocation - Multiple Causes:**

\_\_\_\_\_ License No. \_\_\_\_\_ issued to respondent \_\_\_\_\_ is revoked  
pursuant to Determination(s) of Issues \_\_\_\_\_ separately and for all of them.

3. **Suspension:**

\_\_\_\_\_ License No. \_\_\_\_\_ issued to respondent \_\_\_\_\_ is suspended for  
. During the period of suspension the respondent shall engage in no activities for which  
certification as a Certified Public Accountant or Public Accountant is required as described  
in Business and Professions Code, Division 3, Chapter 1, Section 5051.

4. **Standard Stay Order:**

However, \_\_\_\_\_ (revocation/suspension) \_\_\_\_\_ is stayed and respondent is placed on  
probation for \_\_\_\_\_ years upon the following terms and conditions:

## **STANDARD CONDITIONS OF PROBATION (TO BE INCLUDED IN ALL CASES OF PROBATION)**

**5. Obey All Laws**

Respondent shall obey all federal, California, other states' and local laws, including those rules relating to the practice of public accountancy in California.

**6. Cost Reimbursement**

Respondent shall reimburse the Board \$ \_\_\_\_\_ for its investigation and prosecution costs. The payment shall be made within \_\_ days/months of the date the Board's decision is final.

Option: The payment shall be made as follows: \_\_\_\_\_ [specify either prior to the resumption of practice or in quarterly payments (due with quarterly written reports), the final payment being due one year before probation is scheduled to terminate].

**7. Submit Written Reports**

Respondent shall submit, within 10 days of completion of the quarter, written reports to the Board on a form obtained from the Board. The respondent shall submit, under penalty of perjury, such other written reports, declarations, and verification of actions as are required. These declarations shall contain statements relative to respondent's compliance with all the terms and conditions of probation. Respondent shall immediately execute all release of information forms as may be required by the Board or its representatives.

**8. Personal Appearances**

Respondent shall, during the period of probation, appear in person at interviews/meetings as directed by the Board or its designated representatives, provided such notification is accomplished in a timely manner.

**9. Comply With Probation**

Respondent shall fully comply with the terms and conditions of the probation imposed by the Board and shall cooperate fully with representatives of the California Board of Accountancy in its monitoring and investigation of the respondent's compliance with probation terms and conditions.

**10. Practice Investigation**

Respondent shall be subject to, and shall permit, a practice investigation of the respondent's professional practice. Such a practice investigation shall be conducted by representatives of the Board, provided notification of such review is accomplished in a timely manner.

**11. Comply With Citations**

Respondent shall comply with all final orders resulting from citations issued by the California Board of Accountancy.

**12. Tolling of Probation for Out-of-State Residence/Practice**

In the event respondent should leave California to reside or practice outside this state, respondent must notify the Board in writing of the dates of departure and return. Periods

of non-California residency or practice outside the state shall not apply to reduction of the probationary period, or of any suspension. No obligation imposed herein, including requirements to file written reports, reimburse the Board costs, and make restitution to consumers, shall be suspended or otherwise affected by such periods of out-of-state residency or practice except at the written direction of the Board.

**13. Violation of Probation**

If respondent violates probation in any respect, the Board, after giving respondent notice and an opportunity to be heard, may revoke probation and carry out the disciplinary order that was stayed. If an accusation or a petition to revoke probation is filed against respondent during probation, the Board shall have continuing jurisdiction until the matter is final, and the period of probation shall be extended until the matter is final.

The CBA's Executive Officer may issue a citation under California Code of Regulations, Section 95, to a licensee for a violation of a term or condition contained in a decision placing that licensee on probation.

**14. Completion of Probation**

Upon successful completion of probation, respondent's license will be fully restored.

## **OPTIONAL CONDITIONS OF PROBATION (To Be Included In Cases Where Appropriate)**

**15. Supervised Practice**

Within thirty days of the effective date of this decision, respondent shall submit to the Board or its designee for its prior approval a plan of practice that shall be monitored by another CPA or PA who provides periodic reports to the Board or its designee. Respondent shall pay all costs for such monitoring.

**16. Restitution**

Respondent shall make restitution to \_\_\_\_\_ in the amount of \$\_\_\_\_\_ and shall provide the Board with a written release from \_\_\_\_\_ attesting that full restitution has been paid. Restitution shall be completed before the termination of probation.

**17. Restricted Practice**

Respondent shall be prohibited from \_\_\_\_\_ (performing certain types of engagements such as audits, reviews, compilations, or attestation engagements, etc.), and/or from practice in \_\_\_\_\_ (certain specialty areas, i.e. bookkeeping, write-up, tax, auditing, etc.).

**18. Engagement Letters**

Respondent shall use engagement letters with each engagement accepted during probation and shall provide copies of same to the Board or its designee upon request.

**19. Library Reference Materials**

Respondent shall have immediate access to, shall use, and shall maintain published materials and/or checklists that are consistent with the practice. Such materials and checklists shall be produced on-site for review by the Board or its designee upon reasonable notice.

**20. Ethics Continuing Education**

Respondent shall complete four hours of continuing education in course subject matter pertaining to the following: a review of nationally recognized codes of conduct emphasizing how the codes relate to professional responsibilities; case-based instruction focusing on real-life situational learning; ethical dilemmas facing the accounting profession; or business ethics, ethical sensitivity, and consumer expectations (within a given period of time or prior to resumption of practice). Courses must be a minimum of one hour as described in California Code of Regulations Section 88.2, (Courses will be passed prior to resumption of practice where license has been suspended or where otherwise appropriate.)

If respondent fails to complete said courses within the time period provided, respondent shall so notify the CBA and shall cease practice until respondent completes said courses, has submitted proof of same to the CBA, and has been notified by the CBA that he or she may resume practice. Failure to complete the required courses no later than 100 days prior to the termination of probation shall constitute a violation of probation.

## **21. Regulatory Review Course**

Respondent shall complete a CBA-approved course on the provisions of the California Accountancy Act and the California Board of Accountancy Regulations specific to the practice of public accountancy in California emphasizing the provisions applicable to current practice situations (within a given period of time or prior to resumption of practice). The course also will include an overview of historic and recent disciplinary actions taken by the CBA, highlighting the misconduct which led to licensees being disciplined. The course shall be (a minimum of two hours) hours.

If respondent fails to complete said courses within the time period provided, respondent shall so notify the CBA and shall cease practice until respondent completes said courses, has submitted proof of same to the CBA, and has been notified by the CBA that he or she may resume practice. Failure to complete the required courses no later than 100 days prior to the termination of probation shall constitute a violation of probation.

## **22. Peer Review**

During the period of probation, all audit, review, and compilation reports and work papers shall be subject to peer review by a certified peer reviewer at respondent's expense. The review shall evaluate the respondent's and his/her firm's system of quality control, including its organizational structure, the policies and procedures established by the firm, and the firm's compliance with its quality control system as determined on the basis of a review of selected engagements. The specific engagements to be reviewed shall be at the discretion of the peer reviewer.

Upon completion of the peer review, respondent shall submit a copy of the report with the reviewer's conclusions and findings to the Board.

## **23. CPA Exam**

Respondent shall take and pass the (section) of the CPA examination (within a given period of time - e.g., within 180 days of the effective date of the decision or within 180 days of completion of educational program, etc. or prior to the resumption of practice). (Exam will be passed prior to resumption of practice where license has been suspended or where otherwise appropriate.)

If respondent fails to pass said examination within the time period provided or within two attempts, respondent shall so notify the Board and shall cease practice until respondent takes and successfully passes said exam, has submitted proof of same to the Board, and has been notified by the Board that he or she may resume practice. Failure to pass the required examination no later than 100 days prior to the termination of probation shall constitute a violation of probation.

## **24. Enrolled Agents Exam**

Respondent shall take and pass the enrolled agents exam (within a given period of time or prior to the resumption of practice). (Exam will be passed prior to resumption of practice where license has been suspended or where otherwise appropriate.)

If respondent fails to pass said examination within the time period provided or within two attempts, respondent shall so notify the Board and shall cease practice until respondent takes and successfully passes said examination, has submitted proof of same to the Board, and has been notified by the Board that he or she may resume practice. Failure to pass the required examination no later than 100 days prior to the termination of probation shall constitute a violation of probation.

**25. Continuing Education Courses**

Respondent shall complete and provide proper documentation of (specified) professional education courses within (a designated time). This (shall be/shall not be) in addition to continuing education requirements for relicensing.

OR

Respondent shall complete professional education courses as specified by the Board or its designee at the time of respondent's first probation appearance. The professional education courses shall be completed within a period of time designated and specified in writing by the Board or its designee, which time frame shall be incorporated as a condition of this probation. This (shall be/shall not be) in addition to continuing education requirements for relicensing.

Failure to satisfactorily complete the required courses as scheduled or failure to complete same no later than 100 days prior to the termination of probation shall constitute a violation of probation.

**26. Active License Status**

Respondent shall at all times maintain an active license status with the Board, including during any period of suspension. If the license is expired at the time the Board's decision becomes effective, the license must be renewed within 30 days of the effective date of the decision.

**27. Samples - Audit, Review or Compilation**

During the period of probation, if the respondent undertakes an audit, review or compilation engagement, the respondent shall submit to the Board as an attachment to the required quarterly report a listing of the same. The Board or its designee may select one or more from each category and the resulting report and financial statement and all related working papers must be submitted to the Board or its designee upon request.

**28. Prohibition from Handling Funds**

During the period of probation the respondent shall engage in no activities which require receiving or disbursing funds for or on behalf of any other person, company, partnership, association, corporation, or other business entity.

**29. Community Service - Free Services**

Respondent shall participate in a community service program as directed by the Board or its designee in which respondent provides free professional services on a regular basis to a community or charitable facility or agency, amounting to a minimum of \_\_\_\_ hours. Such services to begin no later than \_\_ days after respondent is notified of the program and to be completed no later than \_\_\_\_\_. Respondent shall submit proof of compliance with this requirement to the Board. Respondent is entirely responsible for his or her

performance in the program and the Board assumes neither express nor implied responsibility for respondent's performance nor for the product or services rendered.

**30. Relinquish Certificate**

Respondent shall relinquish and shall forward or deliver the certificate or permit to practice to the Board office within 10 days of the effective date of this decision and order.

**31. Notification to Clients/Cessation of Practice**

In orders that provide for a cessation or suspension of practice, respondent shall comply with procedures provided by the California Board of Accountancy or its designee regarding notification to, and management of, clients.

**32. Administrative Penalty**

Respondent shall pay to the Board an administrative penalty in the amount of \$ \_\_\_\_\_ for violation of Section(s) \_\_\_\_\_ of the California Accountancy Act. The payment shall be made within \_\_\_ days/months of the date the Board's decision is final.

**33. Medical Treatment**

Respondent shall undergo and continue treatment by a licensed physician of respondent's choice and approved by the Board or its designee until the treating physician certifies in writing in a report to the Board or its designee that treatment is no longer necessary. Respondent shall have the treating physician submit reports to the Board at intervals determined by the Board or its designee. Respondent is responsible for costs of treatment and reports.

(Optional)

Respondent shall not engage in practice until notified by the Board of its determination that respondent is physically fit to practice.

**34. Psychotherapist**

Respondent shall undergo and continue treatment by a licensed psychotherapist of respondent's choice and approved by the Board or its designee until the treating psychotherapist certifies in writing in a report to the Board or its designee that treatment is no longer necessary. Respondent shall have the treating psychotherapist submit reports to the Board at intervals determined by the Board or its designee. Respondent is responsible for costs of treatment and reports.

(Optional)

Respondent shall not engage in practice until notified by the Board of its determination that respondent is mentally fit to practice.

**35. Rehabilitation Program/Chemical Dependence**

Respondent shall successfully complete or shall have successfully completed a rehabilitation program for chemical dependence that the Board or its designee approves and shall have reports submitted by the program. If a program was not successfully completed prior to the period of probation, the respondent, within a reasonable period of time as determined by the Board or its designee but not exceeding 90 days of the effective

date of the decision, shall be enrolled in a program. In addition, respondent must attend support groups, (e.g. Narcotics Anonymous, Alcoholic Anonymous etc.), as directed by the Board or its designee. Respondent is responsible for all costs of such a program.

**36. Drugs - Abstain From Use**

Respondent shall completely abstain from the personal use of all psychotropic drugs, including alcohol, in any form except when the same are lawfully prescribed.

**37. Drugs - Screening**

Respondent shall participate or shall have participated in a drug screening program acceptable to the Board and shall have reports submitted by the program. Respondent is responsible for all costs associated with said screening and reporting.

**38. Biological Fluid Testing**

Respondent, at any time during the period of probation, shall fully cooperate with the Board or its designee in its supervision and investigation of compliance with the terms and conditions of probation, and shall, when requested, submit to such tests and samples as the Board or its designee may require for the detection of alcohol, narcotics, hypnotic, dangerous drugs, or controlled substances. Respondent is responsible for all costs associated with this investigation and testing.

Conditions 33-38 shall be used when evidence indicates respondent may have physical or mental ailment(s) or conditions(s) which contributed to the violation or when the same are alleged by respondent to be a contributing factor to the violation(s).

**DEPARTMENT OF CONSUMER AFFAIRS**

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

**Attachment 5****5. Internet Disclosure****NASBA Enforcement Guidelines**

**General Findings:** The goal is to allow market forces to elevate the profession by directing consumers away from licensees with troubled records and toward those who have adhered to professional standards. Thus, the disclosures must be of sufficient detail for consumers to be able to make informed judgments about whether discipline poses a risk to them or is indicative of a prior problem relevant to why they are retaining the CPA.

Finally, internet disclosure has two other beneficial consequences. One, it elicits confidence in the board's operations. If a consumer found out that the board had secreted information from the public about a CPA that hurt the consumer, that consumer would not view the board as its champion. Likewise, as enforcement is the major duty of the board, disclosure of enforcement promotes transparency and accountability about the performance of an important state government agency.

Internet disclosures should for these reasons provide easy access by consumers to the disciplinary history, if any, of a CPA offering services to the consumer. States will vary in the documents that may be accessed by the public online, but at a minimum, states should provide sufficient information that a consumer can readily determine if any regulatory "red flags" exist that warrant further investigation by the consumer.

- a. Boards should participate in the ALD and CPAverify
  - i. Boards should strive to provide final disciplinary action to ALD/CPAverify for notation in the database
  - ii. Board should strive to provide information necessary for "hashing" licensee records across jurisdictions should be provided to the ALD to assist transparency and cross-border discipline

**CBA Comparison**

The CBA actively participates in Accountancy Licensee Database (ALD) and CPAverify. The CBA provides ALD and CPAverify final disciplinary information as part of its participation. Additionally, the data transmitted by the CBA allows for the necessary "hashing" information. In addition to participating in ALD and CPAverify, the CBA maintains robust internet disclosure related to its licensee population via the License Lookup feature. The CBA License Lookup feature includes individuals and accountancy firms licensed or registered by the CBA, and provide consumers the following information:

- Licensee/Firm Name

## Internet Disclosure

Page 2 of 3

- Type of License
- License Number and Status
- Experience Completed
- Expiration and Issuance Date
- Address of Record
- Disciplinary Actions/License Restrictions

Also included as part of the CBA License Lookup is information designed to assist consumers who may be selecting an out-of-state licensee not licensed by the CBA but authorized to practice in California under practice privilege (mobility). Business and Professions Code (BPC) section 5096.20 outlines the information which the CBA must include.

BPC section 5096.20 requires the addition of an out-of-state licensee section to the License Lookup tab of the CBA website that, at minimum, includes the following:

- The ability to search by name and state of licensure.
- Information in the possession of the CBA about an individual exercising a practice privilege in California, including, but not limited to, any action the CBA has taken against the individual.
- A disclaimer that the consumer must click through prior to being referred to any other websites, which in plain language explains that the consumer is being referred to a website that is maintained by a regulatory agency or other entity that is not affiliated with the CBA, as well as a link to relevant sections of Article 5.1 of the California Accountancy Act that set forth disqualifying conditions.
- A statement in plain language that notifies consumers that they are permitted to file complaints against such individuals with the CBA.
- A link to the websites that the CBA determines provides the consumer with the most complete and reliable information available about the individual's status as a license, permit, or certificate holder.
- If the board of another state does not maintain a website that allows a consumer to obtain information about its licensees including disciplinary history, and that information is not available through a link to a website 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 disciplinary history, about individuals through the website, and that the out-of-state board is not affiliated with the CBA. The CBA is required to biennially survey the websites and disclosure policies of other boards to ensure that disclaimers remain accurate.

### **NASBA Enforcement Guidelines**

- b. Boards should publish final disciplinary action by the Board through a web site, newsletter or other available media, either with specific information regarding the facts that caused the board to impose discipline including, but not limited to, a board

## **Internet Disclosure**

Page 3 of 3

considering posting official documents that would be public records if requested by a consumer, or sufficient information to allow the consumer to contact the Board for particular details.

### **CBA Comparison**

The CBA posts charging documents (Accusations), disciplinary actions/license restrictions (including the decision and order), and citations to its website. Consumers can access these items via multiple areas. Additionally, the CBA publishes all disciplinary actions in its triennial publication UPDATE. Finally, the CBA targets media outlets where the licensees who were disciplined reside and issues press releases.

### **NASBA Enforcement Guidelines**

- c. Boards should capture “discipline under mobility” violation in CPAverify licensee record indicating the state where discipline was issued, with sufficient information to allow the consumer to contact the disciplining board to investigate the activity that resulted in discipline.

### **CBA Comparison**

In a discussion with NASBA representatives, this a new feature presently under development. Once operational, the CBA will fully participate in the disclosure of this information.

### **Staff’s Observations**

Staff believes the CBA enforcement practices meets the guidelines associated with internet disclosure as outlined in the NASBA Enforcement Guidelines.