

TITLE 16. DIVISION 1. CALIFORNIA BOARD OF ACCOUNTANCY

NOTICE IS HEREBY GIVEN that the California Board of Accountancy (CBA) is proposing to take the action described in the Informative Digest. Any person interested may present statements or arguments orally or in writing relevant to the action proposed at a hearing to be held at California State Polytechnic University, Pomona, Kellogg West Conference Center and Hotel, 3801 W Temple Avenue, Pomona, CA 91768 at 3:00 p.m. on Thursday, September 26, 2019. Written comments, including those sent by mail, facsimile, or e-mail to the addresses listed under Contact Person in this Notice, must be received by the CBA at its office by August 26, 2019 or must be received by the CBA at the hearing. The CBA, upon its own motion or at the instance of any interested party, may thereafter adopt the proposals substantially as described below or may modify such proposals if such modifications are sufficiently related to the original text. With the exception of technical or grammatical changes, the full text of any modified proposal will be available for 15 days prior to its adoption from the person designated in this Notice as contact person and will be mailed to those persons who submit written or oral testimony related to this proposal or who have requested notification of any changes to the proposal.

Authority and Reference: Pursuant to the authority vested by Sections 5010 and 5076 of the Business and Professions Code (BPC), and to implement, interpret or make specific Sections 5031.5, 5076 and 5100 of said Code, the CBA is considering changes to Section 45 of Division 1 of Title 16 of the California Code of Regulations (CCR) as follows:

INFORMATIVE DIGEST

A. Informative Digest

BPC section 5076(c) authorizes the CBA to adopt regulations as necessary to implement, interpret, and make specific the peer review requirements.

Peer review is a systematic review of a firm's accounting and auditing services performed by a CPA peer reviewer who is unaffiliated with the firm being reviewed to ensure work performed conforms to professional standards. Existing law at BPC section 5076(a) requires a "firm" licensed by the CBA to have a peer review report of its accounting and auditing practice accepted by a CBA-recognized peer review program no less frequently than every three years in order to maintain licensure. In BPC section 5035.1, a "firm" is defined to include a CBA-licensed corporation, partnership, or sole proprietorship.

Current regulation, 16 CCR section 45, requires, at the time of renewal, a licensee to report to the CBA specific peer review information as required on the Peer Review Reporting Form (Form PR-1).

The CBA proposes to amend the text of 16 CCR section 45 and Form PR-1 to simplify the reporting process and make it clearer that a licensee is required to report accounting

Peer Review Reporting Regulatory Proposal Continued

and auditing services performed and peer review compliance if the licensee is considered a “firm” as defined in BPC section 5035.1 (i.e., providing services as a sole proprietorship, corporation or partnership). Under the proposed amendment, individual Certified Public Accountants / Public Accountants (CPAs/PAs) working for an accountancy corporation or a partnership licensee and those renewing in an “inactive” or “retired” status would not be required to separately report compliance with peer review at the time of renewal, and only licensees who meet the definition of “firms” as defined in BPC section 5035.1 would be required to report such compliance.

In addition, current Form PR-1 includes questions initially needed to capture statistical information the CBA was mandated to report to the Legislature and Governor by January 1, 2015 pursuant to BPC 5076(m). As the reporting period is complete, the CBA proposes deleting those questions from Form PR-1 that were only needed for the CBA’s report.

Specifically, this proposal would do the following:

Section 45(a)

The proposed amendment would strike the word “licensee” from this section and replace it with “firm.” It would clarify that, at the time of renewal, only a firm, as defined in Section 5035.1, shall report to the CBA specific peer review information as required on Form PR-1 (Rev. 6/19), which would be incorporated by reference.

Section 45(b)

The proposed amendment eliminates this subdivision because licensees currently report peer review compliance on a biennial basis at the time of renewal, and as such, is no longer needed. This subsection was used to allow licensees to report peer review information in phases according to a schedule prior to January 1, 2014.

Section 45(c)

The proposed amendment renumbers this provision to 45(b) and changes the form revision date to be consistent with the changes proposed in this rulemaking. It also would add “or firm’s” to clarify who is subject to disciplinary action as provided in this section. This ensures consistency with the requirement that firms are the responsible party, who will be subject to disciplinary action if the firm makes any false, fraudulent, or misleading statements as a part of, or in support of its peer review reporting.

Form PR-1

This proposal would also revise Form PR-1 (Rev. 11/17) and replace it with Form PR-1 (Rev. 6/19), which contains the following changes:

- (1) Question 1 and Form Title: The word “licensee” is being struck to clarify that only firms are subject to this reporting requirement.
- (2) New Question 2: The proposed amendment will add a separate line for the licensee to insert his or her name.

- (3) Question 6: This question will be renumbered to Question 7. The question currently asks whether a licensee is operating as an accounting firm and asks the licensee to check a box (yes/no) to identify whether they are considered an accounting firm. The question would be revised under this proposal to ask the licensee to identify the type of accounting firm (Sole Proprietorship, General Partnership, Limited Liability Partnership, or Corporation). Since the form will only need to be completed by those licensees operating as an accounting “firm,” the question needs to be amended to help identify the firms that are required to comply with the peer review reporting requirement. In addition, a sentence would be added, in parenthesis, to help explain that a sole proprietorship is simply an individual who works independently. This will help firms determine which box to check on the form.
- (4) Questions 7, 11a, 11b, 12, 13, and 14: This proposal would delete these questions from the form. These questions were intended to gather information from licensees for the purpose of preparing the CBA’s January 1, 2015 report to the Legislature (e.g., firm size, identity of peer review administrator, highest level of accounting and auditing service performed, cost of peer review, and time spent preparing for the review) required by BPC 5076(m). Since the report has been completed, this information is no longer needed.
- (5) New Question 11: A new question regarding whether the peer review was administered by a Board-recognized peer review provider is being added. The question is necessary to confirm compliance with the requirement in BPC 5076 that a peer review be accepted by a Board-recognized peer review program provider.
- (6) Question 15: This question will be renumbered to Question 12.
- (7) Amendment to Personal Information and Collection Access Notice (Information Practices Act (IPA) Notice – Civil Code section 1798.17): The current IPA notice broadly cites to statutory provisions relating to qualifications for CPA licensure. This proposal would correct and revise those citations to more specifically refer to the authority to collect personal information under the peer review program as set forth in BPC section 5076 and 16 CCR section 45.

B. Policy Statement Overview/Anticipated Benefits of Proposal

This regulatory proposal would clarify that only licensees who operate as “firms” would need to report specific peer review information. Amending the regulation will benefit firms by providing clarity regarding who is required to report peer review information to the CBA. Providing clear guidance regarding who is subject to this requirement may reduce deficiencies at the time of renewal and ensure a more timely renewal. The proposed amendment would also uphold the CBA’s mission to protect consumers by ensuring that firms, including sole proprietorships, are in compliance with the peer review requirement.

Consistency and Compatibility with Existing State Regulations

During the process of developing these regulations and amendments, the CBA has conducted a search of any similar regulations on this topic and has concluded that

these regulations are neither inconsistent nor incompatible with existing state regulations.

INCORPORATION BY REFERENCE

Peer Review Reporting Form PR-1 (Rev. 6/19)

FISCAL IMPACT ESTIMATES

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

None

Nondiscretionary Costs/Savings to Local Agencies:

None

Local Mandate:

None

Cost to Any Local Agency or School District for Which Government Code Sections 17500 - 17630 Require Reimbursement:

None

Business Impact:

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

This proposal impacts Certified Public Accounting (CPA) firms, of which the CBA in FY 2015-16 renewed 1,791 corporations, 671 partnerships, and an unknown number of CPA licensees who work as sole proprietors. The CBA does not track how many of its licensees are working as sole proprietors or small businesses.

The proposal would change who will be required to report peer review information to the CBA. Instead of having all licensees report whether they are subject to peer review, the proposed amendment would require only those licensees operating as a "firm" (as a sole proprietorship, accountancy corporation or accountancy partnership) to report specified peer review information on the licensee's renewal date, once every two years.

Although firms who are subject to peer review must complete the peer review process once every three years, pursuant to BPC section 5076, the reporting of this information to the CBA occurs at license renewal, which occurs every two years. This means that fewer CPAs will have reporting requirements and therefore less opportunity for deficient renewal applications, resulting in some cost savings (postage and time) for CPA licensees who are retired, inactive or who do not provide accounting services as a sole proprietorship.

For those firms still subject to this requirement, however, the entire reporting process should continue to take no more than 5 minutes to complete. Since there should be no additional time or cost anticipated as a result of these changes, the cost impact to licensees is considered zero or negligible. In addition, expenses associated with submitting the form continue to include mailing; these expenses are minimal and should not have a significant fiscal impact on these firms.

The proposal would impose the following reporting, recordkeeping, or other compliance requirements:

- It requires all firms report specific peer review information on Form PR-1 (Rev. 6/19) at the time of renewal.

The following studies/relevant data were relied upon in determining that the proposed action would not have a significant statewide adverse economic impact on businesses:

None

Cost Impact on Representative Private Person or Business:

The CBA is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

Effect on Housing Costs:

None

EFFECT ON SMALL BUSINESS

The CBA has determined that the proposed regulations would affect small businesses. Previously, all licensees were required to report specific peer review information; this proposal would limit this reporting to licensed firms which are already required to report this information under current law.

RESULTS OF ECONOMIC IMPACT ASSESSMENT/ANALYSIS

Impact on Jobs/Businesses:

The CBA has determined that this regulatory proposal will not have a significant impact on the creation of jobs or new businesses or the elimination of jobs or existing businesses or the expansion of businesses in the State of California.

Benefits of Regulation:

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

This proposal would allow the CBA to better protect consumers by clarifying the peer review reporting requirements, which will reduce confusion and improve reporting, allowing the CBA to better monitor compliance with the peer review requirement.

This regulatory proposal does not affect worker safety because it has nothing to do with worker safety.

This regulatory proposal does not affect the state's environment because it has nothing to do with the environment.

CONSIDERATION OF ALTERNATIVES

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

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

INITIAL STATEMENT OF REASONS AND INFORMATION

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

TEXT OF PROPOSAL

Copies of the exact language of the proposed regulations, and any document incorporated by reference, and of the initial statement of reasons, and all of the information upon which the proposal is based, may be obtained at the hearing or prior to the hearing upon request from the CBA at 2450 Venture Oaks Way, Suite 300, Sacramento, CA 95833.

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

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

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

CONTACT PERSON

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

Name:	Aaron Bone
Address:	2450 Venture Oaks Way, Suite 300, Sacramento, CA 95833
Telephone No.:	916-561-1782
Fax No.:	916-263-3674

E-Mail Address: aaron.bone@cba.ca.gov

The backup contact person is:

Name: Deanne Pearce
Address: 2450 Venture Oaks Way, Suite 300,
Sacramento, CA 95833
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Website Access:

Materials regarding this proposal can be found at
<http://www.dca.ca.gov/cba/about-cba/laws-and-rules.shtml>.