

**DEPARTMENT OF CONSUMER AFFAIRS
TITLE 16. PROFESSIONAL AND VOCATIONAL REGULATIONS
DIVISION 1.
CALIFORNIA BOARD OF ACCOUNTANCY**

**NOTICE OF PROPOSED REGULATORY ACTION CONCERNING:
DISCIPLINARY GUIDELINES AND MODEL ORDERS 11TH EDITION**

NOTICE IS HEREBY GIVEN that the California Board of Accountancy (CBA) is proposing to take the action described in the Informative Digest below, after consideration of all comments, objections, and recommendations regarding the proposed action.

PUBLIC HEARING

The CBA has not scheduled a public hearing on this proposed action. However, the CBA will hold a hearing if it receives a written request for a public hearing from any interested person, or his or her authorized representative, no later than 15 days prior to the close of the written comment period. A hearing may be requested by making such request in writing addressed to the individuals listed under “Contact Person” in this notice.

WRITTEN COMMENT PERIOD

Written comments relevant to the action proposed, 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 no later than by Monday, August 4, 2025**, or must be received by the CBA at the hearing, should one be scheduled.

AUTHORITY AND REFERENCE

Pursuant to the authority vested by Sections 5010, 5018 and 5116 of the Business and Professions Code¹ (BPC); and Section 11400.20 of the Government Code (GC), and to implement, interpret or make specific Sections 5018, 5096, 5096.5, 5096.12, 5100 and 5116-5116.6 of the BPC; and Section 11425.50(e) of the GC, the CBA is considering amending Section 98 of Division 1 of Title 16 of the California Code of Regulations² (CCR) (CBA Regulations).

INFORMATIVE DIGEST / POLICY STATEMENT OVERVIEW

The CBA licenses, regulates, and investigates complaints against five different license categories in California, totaling approximately 115,000 licensees and registrants. These licensing categories include Public Accountant, Certified Public Accountant (CPA), Accountancy Corporation, Accountancy Partnership, and out-of-state registered accounting firm. It is the CBA’s duty to enforce and administer the Accountancy Act

¹ Unless otherwise specified, all sections refer to the Business and Professions Code.

² Unless otherwise specified, all California Code of Regulations refer to title 16.

Chapter 1 (commencing with section 5000) of Division 3 of the BPC. The CBA is authorized to establish necessary rules and regulations for the enforcement of the Accountancy Act and laws subject to its jurisdiction (BPC section 5010).

The CBA's mission is to protect consumers by ensuring only qualified licensees practice public accountancy in accordance with established professional standards.

Existing law, BPC section 5116, requires the CBA to establish criteria for assessing administrative penalties for violations of the Accountancy Act.

Existing law, GC section 11425.50(e) specifies that a penalty may not be based on a guideline, criterion, bulletin, manual, instruction, order, standard of general application, or other rule unless it has been adopted as a regulation.

Existing regulation, CCR section 98, incorporates by reference the CBA's "Disciplinary Guidelines and Model Orders, 10th edition, 2019" (Disciplinary Guidelines). The CBA reviews the Disciplinary Guidelines for relevancy on a triennial basis and the latest edition was adopted in June 2021. The CBA is proposing to amend CCR section 98 to incorporate by reference its "Disciplinary Guidelines and Model Orders, 11th edition, 2023" which adopts recent policy direction by the CBA and makes non-substantive changes.

During the July 2023 meeting, the CBA approved the initiation of a rulemaking to include the National Association of State Boards of Accountancy (NASBA) Center for the Public Trust (CPT) Ethics Leadership Training in the Disciplinary Guidelines with the intent of promoting ethical practices for licensees receiving discipline.

Under this proposal, the NASBA CPT Ethics Leadership Training would be added to the Standard Conditions of Probation, under Model Order 26, with the existing terms of Ethics Continuing Education. These trainings are also added under the "If warranted" section of the Conditions of Probation allowing the CBA to impose one or both trainings depending on the severity of the violations of the Accountancy Act and/or CBA Regulations.

During the July 2023 meeting, the CBA also decided to add language to the Rehabilitation Evidence section regarding petitions for reduction of penalty. This proposal adds paragraph "h" to the Rehabilitation Evidence section as an additional type of evidence the Respondent may submit to the CBA. The new paragraph details the supporting documents licensees can include in their Petition for Reduction of Penalty, as it relates to a financial penalty.

During the January 2024 meeting, the CBA approved the initiation of a rulemaking to move the existing Tolling of Probation for Out-of-State Residence/Practice term from a standard term to an optional term of probation. The CBA also decided to add a standard term and condition allowing a licensee to surrender a license while on probation. The

CBA approved staff's recommendations to include these changes in the next edition of the Disciplinary Guidelines.

The existing language under Model Order 23, related to tolling of probation for out-of-state licensees would move to new Model Order 50 under the Optional Terms for Probation section. The new Model Order 50 would add language providing reference to instances of which would not be considered tolling, therefore allowing the probation term to expire.

In place of the old Model Order 23, new language would be added to allow a licensee to surrender a license while on probation.

Due to the critical nature of the document and the fact it is often relied upon by the CBA, licensees, attorneys, and Administrative Law Judges (ALJs) during the imposition of discipline, the aforementioned revisions are necessary to address the changes that have been made to the process and to ensure the CBA imposes discipline against licensees in a consistent manner.

Anticipated Benefits of Proposal

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

This regulatory proposal may benefit the health and welfare of California residents because the updated Disciplinary Guidelines will improve clarity for staff, licensees and individuals involved in the disciplinary process. The proposed changes enable the CBA to meet its mandate to protect consumers by ensuring that a licensee providing public accounting services to consumers is sufficiently rehabilitated and only qualified licensees practice public accountancy.

This regulatory proposal does not affect worker safety because the regulatory proposal does not relate to worker safety.

Evaluation of Consistency and Compatibility with Existing State Regulations

During the process of developing this regulatory proposal, 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 Disciplinary Guidelines and Model Orders, 11th Edition (2023)

DISCLOSURES REGARDING THIS PROPOSED ACTION

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. The proposed regulations do not result in a fiscal impact to the state.

This proposal provides revisions to the CBA's Disciplinary Guidelines, which would provide greater clarity to licensees, consumers, the CBA, attorneys, and ALJs by outlining the range of enforcement actions related to violations of the Accountancy Act, CBA Regulations, and other provisions.

The CBA does not anticipate additional workload or costs resulting from the proposed regulations. This proposal does not change the fines for violations, so no additional revenues are anticipated.

The regulations do not result in costs or savings in federal funding to the state.

Nondiscretionary Costs/Savings to Local Agencies

None.

Cost to any Local Agency or School District for which Government Code Sections 17500 - 17630 Require Reimbursement

None.

Mandate Imposed on Local Agencies or School Districts

None.

Significant Effect on Housing Costs (and, if applicable, including any estimated costs of compliance or potential benefits of a building standard)

None.

BUSINESS IMPACT ESTIMATES

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 initial determination is based on the following facts/evidence/documents or testimony:

The proposed amendments to the Disciplinary Guidelines would only impact CBA licensees who are disciplined and placed on probation for violations of the Accountancy Act or CBA Regulations. The CBA imposes probationary terms on a case-by-case basis and depend on the severity of the violation(s).

The proposed regulatory action would only adversely affect a negligible number of

licensees who, through their conduct, subject themselves to disciplinary action for violations of the laws and regulations within the CBA's jurisdiction. Any potential "adverse economic impact" may be avoided simply by complying with the existing laws and regulations governing the practice of public accountancy in California.

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.

RESULTS OF ECONOMIC IMPACT ASSESSMENT/ANALYSIS

Impact on Jobs/Businesses:

The CBA has determined that the proposed regulatory action will not have any impact on the following:

- 1) the creation or elimination of jobs within the state,
- 2) the creation of new businesses or the elimination of existing businesses within the state, or,
- 3) the expansion of businesses currently doing business within the state.

This proposal would not have any of the above-referenced impacts as explained in the "Business Impact Estimates" section of this notice.

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 the state's environment:

This regulatory proposal may benefit the health and welfare of California residents because the updated Disciplinary Guidelines will improve clarity for staff, licensees and individuals involved in the disciplinary process. The proposed changes enable the CBA to meet its mandate to protect consumers by ensuring that a licensee providing public accounting services to consumers is sufficiently rehabilitated and only qualified licensees practice public accountancy.

This regulatory proposal does not affect worker safety because the regulatory proposal does not relate to worker safety.

Business Reporting Requirements:

The regulatory action does not require businesses to file a report with the CBA.

Effect on Small Business:

The CBA has determined that the proposed regulations would not affect small businesses. The CBA does not maintain data relating to the number or percentage of

licensees who are a small business but does not anticipate small businesses to be impacted.

The proposed amendments to the Disciplinary Guidelines would only impact CBA licensees who are disciplined and placed on probation for violations of the Accountancy Act or CBA regulations. The CBA imposes probationary terms on a case-by-case basis and depend on the severity of the violations.

The proposed regulatory action would only adversely affect a negligible number of licensees who, through their conduct, subject themselves to disciplinary action for violations of the laws and regulations within the CBA's jurisdiction. Any potential "adverse economic impact" may be avoided simply by complying with the existing laws and regulations governing the practice of public accountancy in California.

CONSIDERATION OF ALTERNATIVES

In accordance with Government Code section 11346.5, subdivision (a)(13), the CBA must determine that no reasonable alternative it considered to the regulation or that has otherwise been identified and brought to its attention would be more effective in carrying out the purpose for which the action is proposed; would be as effective and less burdensome to affected private persons than the proposal described in this Notice; or would be more cost-effective to affected private persons and equally effective in implementing the statutory policy or other provision of law.

Any interested person may submit comments to the CBA in writing relevant to the above determinations at 2450 Venture Oaks Way, Suite 300, Attention Regulatory Coordinator, Sacramento, CA 95833 or by sending an email to Regulations@cba.ca.gov during the written comment period, or at the hearing if one is scheduled or requested.

AVAILABILITY OF STATEMENT OF REASONS AND RULEMAKING FILE

The CBA has compiled a record for this regulatory action, which includes the Initial Statement of Reasons (ISOR), proposed regulatory text, and all the information on which this proposal is based. This material is contained in the rulemaking file and is available for public inspection upon request to the contact persons named in this notice.

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 upon request from the CBA, at 2450 Venture Oaks Way, Suite 300, Attention Regulatory Coordinator, Sacramento, CA 95833.

AVAILABILITY OF CHANGED OR MODIFIED TEXT

After considering all timely and relevant comments, the CBA, upon its own motion or at the request 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, with the modifications clearly indicated, will be available for review and written comment for 15 days prior to its adoption from the person designated in this Notice as the Contact Person and will be mailed to those persons who submit written comments or oral testimony related to this proposal or who have requested notification of any changes to the proposal.

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 PERSONS

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

Name: Diana Godines
Address: 2450 Venture Oaks Way, Suite 300
Sacramento, CA 95833
Telephone No.: (279) 226-4599
Fax No.: (916) 263-3675
E-Mail Address: Regulations@cba.ca.gov

The backup contact person is:

Name: Deanne Pearce
Address: 2450 Venture Oaks Way, Suite 300
Sacramento, CA 95833
Telephone No.: (279) 236-3012
Fax No.: (916) 263-3675
E-Mail Address: Regulations@cba.ca.gov

AVAILABILITY OF DOCUMENTS ON THE INTERNET

Copies of the Notice of Proposed Action, the Initial Statement of Reasons, and the text of the regulations with modifications noted, as well as the Final Statement of Reasons when completed, and modified text, if any, can be accessed through the CBA's website at <https://www.dca.ca.gov/cba/about/pending-regulations.shtml>.