
CALIFORNIA BOARD OF ACCOUNTANCY



MOBILITY STAKEHOLDER GROUP

ANNUAL REPORT
2016

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I. MESSAGE FROM THE CHAIR

I am pleased to present the California Board of Accountancy (CBA) with the Mobility Stakeholder Group's (MSG) 2016 Annual Report.

The MSG worked diligently throughout 2016 to fulfill its statutory mandate of ensuring the practice privilege law protects the consumers of this state. During this year, the MSG continued its collaboration with the National Association of State Boards of Accountancy (NASBA) to conduct the research with which the CBA will make its determinations about other states'¹ enforcement practices compared to the NASBA Guiding Principles of Enforcement.

The research conducted by NASBA will provide guidance during the CBA's decision making process, for determining whether other state's enforcement practices are substantially equivalent to California. This determination will provide consumer protection, by requiring licensees from states whose practices are not substantially equivalent, to provide notice and pay a fee prior to exercising a practice privilege in California.

To verify the results of NASBA's findings, the MSG defined an assessment framework, and initiated three rounds of assessments using this framework to evaluate NASBA's findings. Based on the results of these assessments, and the verification of disciplinary information on the Internet, the MSG was satisfied with NASBA's research.

In September 2016, Assembly Bill (AB) 2560, a CBA-sponsored bill, was signed by Governor Jerry Brown. This bill grants the CBA the legislative authority to adopt emergency regulations to expedite the rulemaking process related to the practice privilege program.

As we approach the fourth year of the MSG, we will focus on completing the assessment of other states' enforcement programs and making recommendations to the CBA regarding the findings. The MSG approved 45 states as substantially equivalent, leaving only a few states that will be pending equivalency. The MSG will continue considering the consumer protection provisions of the law while discussing and upholding stakeholder objectives.

I would like to express my appreciation for the dedication of those serving on the MSG and look forward to continuing to ensure the success of California's practice privilege program.

Jose A. Campos, CPA
2016 MSG Chair

¹ "State" when not specifically referring to this State, means any state, territory or insular possession of the United States, or the District of Columbia. (*California Business and Professions Code § 5032.*)

II. BACKGROUND

Legislation enacted in 2012, (Stats. 2012, Ch. 411 (Senate Bill (SB) 1405)) rewrote the CBA's practice privilege provisions (Article 5.1, Chapter 1, Division 3 of the Business and Professions Code (BPC)), which became effective July 1, 2013 and shall become inoperative on January 1, 2019. The new provisions beginning at section 5096 of the BPC allow individuals, whose principal place of business is outside of California and are licensed in states that have licensing requirements substantially equivalent to California's, to practice in California under a practice privilege conferred by operation of law without providing a notice or paying a fee. Prior to the passage of SB 1405, individuals possessing out-of-state licenses to practice public accountancy were required to notify the CBA, and pay a fee prior to practicing public accountancy in California.

BPC section 5096.21(e) creates the MSG and, in addition, states in relevant part:

The group, at its first meeting, shall adopt policies and procedures relative to how it will conduct its business, including but not limited to, policies and procedures addressing periodic reporting of its findings to the board.

Effective July 1, 2013, sections 26 – 35.1 of Title 16, Division 1 of the California Code of Regulations (CBA Regulations) became inoperative, and were simultaneously replaced by new sections 5.5 and 18 – 22 of CBA Regulations.

SB 1405 requires the CBA to determine whether allowing licensees of a particular state to practice in California would violate the CBA's duty to protect the public. If this determination shows the public is at risk, the licensees of those particular states would, following a rulemaking by the CBA, revert back to using the prior practice privilege program with its notice and fee provisions.

These determinations are to be made on and after January 1, 2016, and on an ongoing basis. In making the determinations, the CBA is required to consider three factors:

1. Whether the state timely and adequately addresses enforcement referrals made by the board to the accountancy regulatory board of that state, or otherwise fails to respond to requests the board deems necessary to meet its obligations under this article.
2. Whether the state makes the disciplinary history of its licensees publicly available through the Internet in a manner that allows the board to adequately link consumers to an Internet website to obtain information that

was previously made available to consumers about individuals from the state prior to January 1, 2013, through the notification form.

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

III. MOBILITY STAKEHOLDER GROUP RESPONSIBILITIES

The MSG derives its authority from BPC section 5096.21(e). The roles and responsibilities of the MSG, as defined by the law and the CBA, are as follows:

- Hold meetings as necessary in order to conduct business;
- Adopt policies and procedures relative to how it will conduct its business, including, but not limited to, policies and procedures addressing periodic reporting of its findings to the board;
- Consider whether the practice privilege provisions are consistent with the CBA's duty to protect the public in accordance with BPC section 5000.1;
- Consider whether the mobility law satisfies the objectives of stakeholders of the accounting profession, including consumers;
- Prepare an Annual Report to the CBA highlighting its activities.

IV. MOBILITY STAKEHOLDER GROUP MEMBERS

The MSG is comprised of seven members, which consists of members of the CBA, CBA enforcement staff, representatives of the accounting profession, and consumer representatives.

In 2016, the MSG membership consisted of the following members:

Jose A. Campos, CPA, Chair and CBA Member
Joseph P. Petito, Esq., Vice-Chair and accounting profession representative
Don Driftmier, CPA, accounting profession representative
Dominic Franzella, CBA Enforcement Division Chief
Edward Howard, Esq., consumer representative
Michael M. Savoy, CPA, CBA Member
Stuart Waldman, Esq., consumer representative

V. LEGISLATION

To further enhance consumer protection, the CBA sponsored AB 2560 (Stats 2016, Ch. 302), which grants the CBA the legislative authority to adopt emergency regulations to expedite the rulemaking process related to participation in the no-notice, no-fee, practice privilege program and require out-of-state individuals licensed from a particular state, as a condition to

exercising a practice privilege in California, to file the notification form and pay the applicable fees required under the prior practice privilege law.

VI. PROGRAM OVERVIEW

If a licensee's principal place of business is located outside California and he or she holds a valid and current license, certificate, or permit to practice public accountancy from another state, he or she may qualify to practice public accountancy in California under a practice privilege, without giving notice or paying a fee, provided one of the following conditions is met:

- They have continually practiced public accountancy as a CPA under a valid license issued by any state for at least four of the last 10 years.
- They hold a valid license, certificate, or permit to practice public accountancy from a state determined by the CBA to be substantially equivalent to the licensure qualifications in California under BPC section 5093.
- They possess education, examination, and experience qualifications which have been determined by the CBA to be substantially equivalent to the licensure qualifications in California.

A licensee is required to notify and receive written permission from the CBA prior to practicing public accountancy in California if, within the seven years immediately preceding the date on which he or she wishes to practice in this state, certain conditions apply, as outlined in BPC Section 5096(i).

If any of those conditions apply, the licensee must submit a completed "Pre-Notification Form" and await written permission from the CBA prior to engaging in the practice of public accountancy in California.

If an individual exercises a practice privilege and subsequently acquires any condition disqualifying them from holding a California practice privilege, they must cease practicing immediately and notify the CBA in writing within 15 days of the occurrence of the cessation event using the "Notification of Cessation of Practice Privilege Form."

If an individual is exercising a practice privilege in California, they are required to notify the CBA in writing of any pending criminal charges, other than for a minor traffic violation, within 30 days of the date they have knowledge of those charges.

If an individual intends to provide audit or attestation services for an entity headquartered in California, they may only do so through an accounting firm registered with the CBA.

An accounting firm that is authorized to practice public accountancy in another state and does not have an office in this state must register with the CBA prior to performing attest services for an entity headquartered in California.

Out-of-State Accounting Firm Registration (OFR)

Practice privilege holders providing certain attestation services to California-headquartered entities must do so only through a firm registered with the CBA. These accounting firms must submit the “Out-of-State Accounting Firm Registration Form” and obtain approval from the CBA prior to providing these services. There is no fee, but the OFR must be renewed every two years in order for the out-of-state accounting firm to maintain practice rights in California. The out-of-state accounting firm must also notify the CBA of any change of address or change in ownership within 30 days of the change.

VII. STATISTICS

The following is statistical information for the Licensing, Enforcement, and Administration Divisions for the calendar year 2016 as it pertains to the practice privilege program. The information listed is categorized into sections detailing OFR information, customer service, and the volume of contact with consumers and licensees, enforcement-related referrals and investigations, and the CBA’s use of the website to enhance consumer protection.

Licensing Division

The Licensing Division is responsible for two main functions associated with the practice privilege program: (1) processing OFR forms and (2) providing customer service in response to telephone calls and emails.

Below is the statistical data associated with processing OFR applications for the 2016 calendar year. There were some unprocessed applications from 2015 reflected in the total approved applications for 2016, therefore the number is higher than the total number of received applications.

Out-of-State Firm Registrations	2016 Totals
Total Registration Applications Received	98
Total Registration Applications Approved	105
Total Registration Applications Renewed	113

Service to Stakeholders

The Licensing Division serves as the primary point of contact associated with the practice privilege program. Providing excellent service to stakeholders while effectively communicating the requirements of California’s practice

privilege law is critical. The next table provides the statistical data for the total number of telephone calls and e-mails for the 2016 calendar year.

Stakeholder Contact	2016 Totals
Telephone	509 ²
E-mails	554

Enforcement Division

The Enforcement Division is responsible for numerous consumer protection aspects of the practice privilege program, including processing pre-notification and cessation notification forms, reviewing the Securities and Exchange Commission’s (SEC) and Public Company Accounting Oversight Board’s (PCAOB) websites for CPAs that have been disciplined by those entities³, reviewing OFR referrals from the Licensing Division, and reviewing complaints received against practice privilege holders.

The following is statistical data associated with the various Enforcement Division activities for the 2016 calendar year.

Enforcement Division Activities	2016 Totals
Pre-Notification Forms Received	2
Cessation Notification Forms Received	0
SEC Discipline Identified	36
PCAOB Discipline Identified	17
Out-of-State Accounting Firms Referred by Licensing Division	17
Out-of-State Accounting Firm Registrations Denied	1
Complaints Against Practice Privilege Holders Received	11

² Due to technical difficulties with the CBA phone system, telephone call statistics are only available through July 31, 2016. Therefore, the number provided is an estimate.

³ According to BPC 5096.4(a), the CBA shall consult the PCAOB and the SEC at least once every six months to identify out-of-state licensees who may have disqualifying conditions or who may be obliged to cease practice, and shall disclose, pursuant to this subdivision, whether those out-of-state licensees are lawfully permitted to exercise the privilege.

Administration Division

Website Usage

One of the key components of providing widespread consumer protection is by continuously striving to ensure consumers and out-of-state CPAs are equipped with updated information regarding all laws, rules, and regulations of the accounting profession in California. For this reason, the CBA created and maintains a robust website that provides information to consumers and licensees regarding the practice privilege program.

The CBA website contains a license lookup feature for out-of-state CPAs that includes all information in the possession of the CBA on such licensees. It also contains a license lookup feature for all OFRs registered in California. A user may find information on CPA licensees throughout the United States on other board of accountancy states' websites and the CPAverify website, which may be accessed through the CBA website.

The following reflects statistical data for various CBA webpages associated with the practice privilege program for the 2016 calendar year. This table details the total number of hits to each webpage and is not indicative of unique visitors.

Webpage	2016 Totals*
Out-of-State Licensed CPA Search	6,630
Out-of-State Registered Accounting Firms Search	2,060
Practice Privilege Reporting Requirements (Disqualifying)	1,633
Practice Privilege Handbook	2,155

*Associated with the new CBA website launched in May 2016, certain usage data is unavailable. The statistics provided are an estimate based upon the available data.

VIII. ACTIVITIES AND ACCOMPLISHMENTS

The following are some of the major activities and accomplishments of the MSG during 2016:

- The MSG held meetings as necessary to conduct business and make periodic reports to the CBA. The MSG held six meetings in 2016 as follows:
 - January 21, 2016 – Irvine, CA
 - March 17, 2016 – Anaheim, CA

- May 19, 2016 – Los Angeles, CA
- July 21, 2016 – Irvine, CA
- September 15, 2016 – Irvine, CA
- November 17, 2016 – Sacramento, CA

Mr. Campos reported on MSG activities to the CBA at its meetings which followed each MSG meeting. The CBA approved all MSG recommendations made throughout the year.

- In January, the MSG reviewed the 27 states identified by NASBA as substantially equivalent to NASBA's Guiding Principles of Enforcement. NASBA deemed 10 additional states as substantially equivalent, with the exception of making licensee disciplinary information available online. The remaining 18 states had yet to be identified as substantially equivalent.

NASBA's findings were derived from information gathered from two surveys with each state board and multiple follow-up communications with each board's staff. To ensure candid discussions between NASBA and other state board's enforcement practices and procedures, the data gathered by NASBA remained confidential.

- In March, the MSG discussed NASBA's updated assessment, identifying 43 states as substantially equivalent, which includes 14 states that lacked the required Internet disclosure of licensee disciplinary information. The substantial equivalency of 12 states was not yet determined.

The MSG directed CBA staff to review a representative sample of the findings made by NASBA about the various states. When selecting states to review, the MSG suggested staff consider the size of a state's licensee population, the prior number of Practice Privilege holders, and its proximity to California. The MSG recommended that CBA staff first conduct reviews of NASBA's assessments of Arizona and Washington. In addition, the MSG revised the State Information Sheet for staff to use as a guideline when assessing NASBA's findings. The MSG also directed staff to independently review the Internet disclosure portion of the findings concurrently with the assessments.

State Assessments

In April, CBA and NASBA staff met to conduct the assessment of Arizona and Washington. NASBA staff discussed the process, and its results, to review the enforcement practices of all states, including Arizona and Washington.

The Arizona and Washington boards of accountancy provided NASBA with information about their processes including intake, review,

prioritization, investigation, settlement, the presence or lack of Internet disclosure of licensee disciplinary information, formal hearings, and resolution for both administrative and practice complaints. CBA staff received descriptions of the enforcement practices in the summaries provided by NASBA and was provided the opportunity to review raw survey data. Due to the confidentiality requirements of the other state boards of accountancy, CBA staff did not retain or make copies of any raw survey responses.

- In May, CBA staff presented the results and methodology of its assessment of Arizona and Washington and informed the MSG that staff was satisfied with NASBA's findings. The MSG directed staff to assess the NASBA findings of five additional states (Colorado, Illinois, New York, Oregon, and Texas) following the same methods used in Arizona and Washington assessments, and continue to evaluate the undetermined states.

The MSG determined that evaluating these seven states was an appropriate sample size (15 percent of the 43 states identified by NASBA as substantially equivalent, including those lacking the required Internet disciplinary disclosures).

State Assessments

In June, CBA and NASBA staff met to conduct the assessment of NASBA's findings for the states of Colorado, Illinois, New York, Oregon, and Texas. CBA staff followed the previously established assessment methodology.

- In July, CBA staff presented the results of the assessments of Colorado, Illinois, New York, Oregon, and Texas and informed the MSG that staff was satisfied with NASBA's findings. CBA staff indicated that NASBA identified 36 states as substantially equivalent, 10 states as substantially equivalent (but lacked required Internet disciplinary disclosures), and nine states were undetermined.

The MSG recommended that the CBA approve 36 states identified by NASBA as substantially equivalent and directed CBA staff to continue monitoring the remaining states.

- In September, the MSG received an update that NASBA identified 44 states as substantially equivalent with the required Internet disciplinary disclosures. NASBA identified 11 other states as substantially equivalent, but lacked the required Internet disciplinary disclosure. Therefore, the status of all states was determined. The MSG recommended that CBA staff conduct assessments of Utah and Georgia using the previously established assessment methodology.

The MSG reviewed other states' mobility provisions and found that the vast majority of states rely on some form of substantial equivalency to the requirements of licensure outlined in the Uniform Accountancy Act.

- In November, CBA staff reported that NASBA determined that 45 states were substantially equivalent with the required Internet disciplinary disclosures. NASBA identified 10 other states as substantially equivalent, but lacked the required Internet disciplinary disclosures. Because NASBA determined all states as substantially equivalent (with 10 still lacking the required Internet disclosures) and no additional in-depth analysis of the states necessary, the MSG voted to revise their timeline pursuant to 5096.21(a)(1).

CBA staff presented the results of the assessments of Utah and Georgia and informed the MSG that staff was satisfied with NASBA's findings. CBA staff followed the previously established assessment methodology.

The MSG recommended that the CBA approve an additional nine states (for a total of 45) as substantially equivalent and directed CBA staff to continue monitoring the remaining 10 states that are substantially equivalent, but lack required disciplinary Internet disclosures.

- Throughout the year, the MSG monitored NASBA activities and received status reports on the CPAverify website.

IX. 2017 ANTICIPATED TOPICS FOR DISCUSSION

The MSG will continue to meet in conjunction with CBA meetings. It is anticipated the following topics will be presented for discussion before the MSG:

- Concluding the assessment of other states' enforcement programs, specifically whether the remaining ten states provide the required Internet disciplinary disclosures;
- Finalizing decisions on states not yet identified as substantially equivalent;
- Expediting the rulemaking process related to participation in the no-notice, no-fee, practice privilege program;
- Submitting the MSG final report to the CBA; and
- Developing a preliminary draft of the CBA's report to the Legislature pursuant to BPC section 5096.21(f) that explains in detail:
 - How the CBA implemented the program and whether implementation is complete;

- Whether, in the opinion of the CBA, the current program offers more, less, or equivalent consumer protection than the previous program; and
- How other state boards of accountancy addressed enforcement referrals from the CBA, including the timeframe and outcome of any investigations.

X. CONCLUSION

As we approach the fourth year of the MSG, we will focus on completing the assessment of other states' enforcement programs and making recommendations to the CBA regarding the findings. The MSG approved 45 states as substantially equivalent, leaving only a few states that will be pending equivalency. The MSG will continue considering the consumer protection provisions of the law while discussing and upholding stakeholder objectives.