



Professional Fiduciaries Bureau
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West Sacramento, CA 95798-9005
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Website: www.fiduciary.ca.gov



**Professional Fiduciaries Bureau
Advisory Committee Meeting**

Wednesday, June 20, 2018
10:00a.m. – 1:00p.m. or until conclusion

One or more Committee Members will participate in this meeting at the teleconference sites listed below. Each teleconference location is accessible to the public and the public will be given an opportunity to address the Advisory Committee at each teleconference location. The public teleconference sites for this meeting are as follows:

Meeting Location*:

Department of Consumer Affairs (DCA)
1747 North Market Boulevard, 1st Floor Hearing Room
Sacramento, CA 95834

Teleconference Locations:

Elder Well
6345 Balboa Blvd., Bldg. 1, #114
Encino, CA 91316

Jordan Goldstein Fiduciary Services
5 Third Street, Suite 1132
San Francisco, CA 94103

Committee Members

Hang Le To, Chair
Kathleen Thomson, Vice Chair
Dawn Akel
Jenny Chacon
Barbara de Vries
Aileen Federizo
King Gee

AGENDA

- 1) Call to Order – Hang Le To, Chair
- 2) Roll Call & Establishment of Quorum – Angela Cuadra, Program Analyst

- 3) Advisory Committee Members, Bureau Chief, Staff and Legal Counsel Introductions
- 4) Reading of the Professional Fiduciaries Bureau Mission Statement – Rebecca May, Bureau Chief
- 5) Discussion and Approval of the Advisory Committee Meeting Minutes from March 29, 2018
- 6) Update from the Director's Office – DCA Executive Staff
- 7) Bureau Updates – Rebecca May, Bureau Chief
 - Licensing and enforcement statistics
 - Outreach events
 - Bureau's *2018-2022 Strategic Plan*
 - 2017 Continuing Education Audit
 - E-Newsletter
- 8) Budget Report – DCA Budget Analyst
 - Budget Overview and Update
- 9) Legislative Update and Discussion – DCA Legislative Analyst
 - 2018 Legislation Related to the Bureau
 - 1) AB 1247 (Nazarian) Professional fiduciaries: prelicensing education.
 - 2) AB 1779 (Nazarian) Sexual Orientation: Change Efforts
 - 3) AB 2113 (Obernolte) Estates and Trusts: Guardianships
 - 4) AB 2236 (Maienschein) Conservatorships
 - 5) AB 2426 (Maienschein) Trustee: Power to Terminate Trust
 - 6) AB 2750 (Obernolte) Certified Copies of Death Records
 - 7) AB 3144 (Assembly Committee on Business and Professions) Professional Fiduciaries Bureau
 - 8) SB 909 (Hertzberg) Uniform Trust Decanting Act
 - 9) SB 931 (Hertzberg) Conservatorships: Custody Status
 - 10) SB 1011 (Roth) Proceeding to Establish Limited Conservatorship: Person with Developmental Disabilities
 - 2018 Legislation Related to the Department
 - 1) AB 767 (Quirk-Silva): Master Business License Act
 - 2) AB 827 (Rubio) Department of Consumer Affairs: Task force: Foreign-Trained Professionals
 - 3) AB 1380 (Santiago) Developmental Services: Regional Center Services
 - 4) AB 2138 (Chiu) Licensing Boards: Denial of Application: Revocation or Suspension of Licensure: Criminal Conviction
 - 5) AB 2264 (Brough) Professions and Vocations: Fees

- 6) AB 2409 (Kiley) Professions and Vocations: Occupational Regulations
 - 7) AB 2483 (Voepel) Indemnification of public officers and employees: antitrust awards
 - 8) AB 3183 (Carrillo) Consumers
 - 9) SB 984 (Skinner) State Boards and Commissions: Representation: Women
 - 10) SB 1137 (Vidak) Veterans: Professional Licensing Benefits
 - 11) SB 1371 (Morrell) Occupational Licensing: List
 - 12) SB 1465 (Hill) Professions and Vocations: Examinations
- Update regarding the difference between general and limited conservatorships in regard to AB 1779 (Nazarian) Sexual orientation: change efforts.
 - Discussion of legislative proposals related to AB 3144 (Assembly Committee on Business and Professions) Professional Fiduciaries Bureau
- 10) Update Regarding the Bureau's Occupational Analysis – Office of Professional Examination Services (OPES) Staff
 - 11) Proposed Rulemakings – Rebecca May, Bureau Chief
 - Update regarding Inactive/Retired License Proposed Regulation - Sections 4560-4580 of Article 8 of Title 16 of the California Code of Regulations
 - Update and discussion regarding Client Notification Proposed Regulation - Section 4640 of Article 12 of Title 16 of the California Code of Regulations
 - 12) Discussion Regarding the Bureau's *2018-2022 Strategic Plan* and Possible Formation of Subcommittees to Further the Goals of the Strategic Plan – Rebecca May, Bureau Chief
 - 13) Review and Discussion of Possible Revisions to the Bureau's Brochures – Rebecca May, Bureau Chief
 - 14) Future Agenda Items
 - 15) Future Meeting Dates
 - Wednesday, August 15, 2018
 - Wednesday, November 7, 2018
 - 16) Public Comment on Items Not on the Agenda (See "Note" below)
 - 17) Adjournment

Please note: In accordance with the Bagley-Keene Open Meeting Act, all meetings of the Board are open to the public. Government Code Section 11125.7

provides the opportunity for the public to address each agenda item during discussion or consideration. The public can participate in the discussion of any item on this agenda. If the committee does not offer public comment before going on to the next agenda item, the public may request the floor at the start of the next agenda item to comment on a prior agenda item.

Note: The meeting may be cancelled or changed without notice. For verification, please check the Bureau's website at <http://www.fiduciary.ca.gov> or call (916) 574-7340. The Professional Fiduciaries Bureau Advisory Committee may take action on any of the above agenda items; however, the committee may not discuss or take action on any matter raised that is not included in this agenda. The Committee may, however, decide to place the matter on the agenda of a future meeting. Any item may be taken out of order to accommodate speakers and/or to maintain a quorum. All times indicated are approximate. The public may take appropriate opportunities to comment on any issue before the Committee at the time the item is heard, but the Committee Chair may, at his or her discretion, apportion available time among those who wish to speak. The public may comment on issues not on the agenda, but Committee Members cannot discuss and/or take action on any issue that is not listed on the agenda.

Notice: The meeting is accessible to persons with disabilities. A person who needs accommodations or modifications in order to participate in the meeting should make a request no later than five working days before the meeting to the Bureau by contacting Jenny Turner at (916) 574-8375, jenny.turner@dca.ca.gov or by sending a written request to the Professional Fiduciaries Bureau, 1625 North Market Blvd., Ste. S-209, Sacramento, California 95834.

Requests for further information should be directed to Ms. Turner at the same address and telephone number.

*The Bureau plans to webcast this meeting on its website at www.fiduciary.ca.gov. Webcast availability cannot, however, be guaranteed due to limitations on resources or technical considerations. If you wish to participate or to have a guaranteed opportunity to observe, please plan to attend at a physical location.

OUR MISSION

To protect consumers through licensing, education, and enforcement of the Professional Fiduciaries Act by promoting and upholding competency and ethical standards across the profession.



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**Professional Fiduciaries Bureau (Bureau)
Advisory Committee Meeting
Thursday, March 29, 2018**

Meeting Minutes

Committee Members Present

- Hang Le To, Chair
- Kathleen Thomson, Vice Chair
- Dawn Akel
- Jenny Chacon (via teleconference location)
- Barbara de Vries (via teleconference location)
- Aileen Federizo (via teleconference location)
- King Gee

Department of Consumer Affairs (DCA) Staff Present

- Rebecca May, Bureau Chief
- Angela Cuadra, Bureau Program Analyst
- Fred Chan-You, DCA Legal Counsel

- 1) Call to Order – Ms. To called the meeting to order at 10:01 a.m. and stated the meeting date and locations.
- 2) Roll Call & Establishment of Quorum –
Ms. Cuadra called roll. Committee members Ms. Hang Le To, Ms. Kathleen Thomson, Ms. Dawn Akel, and Mr. King Gee were present at meeting location 1625 N. Market Blvd, Sacramento, CA 95834. Ms. Aileen Federizo was present via teleconference from teleconference location 6345 Balboa Blvd., #114, Bldg. 1, Encino, CA 91316. Ms. Barbara de Vries was present via teleconference from teleconference location 5-Third Street, Suite 1132, San Francisco, CA 94103. Ms. Jenny Chacon was absent. A quorum was established with six members present. Ms. Chacon arrived after the establishment of a quorum at 10:14 a.m.
- 3) Advisory Committee, Bureau Chief, Staff and Legal Counsel Introductions –Committee Members introduced themselves. Ms. Jordan Goldstein and Dan introduced themselves from the San Francisco teleconference location.
- Public Comment: None.
- 4) Updates from the Director's Office –
Ms. Karen Nelson, Assistant Deputy Director of Board and Bureau Services, presented updates from the Director's Office.
The DCA welcomes Dennis Cuevas-Romero as Deputy Director of Legislative Affairs. Prior to Mr. Cuevas-Romero's appointment, he was the government relations director at the American Heart Association/American Stroke Association in Sacramento since 2016.

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Regarding calendar updates for DCA, the Future Leadership Development Program had its first graduation and there were 12 graduates. On April 30, DCA will hold its second directors quarterly meeting for Executive Officers and Chiefs to meet and talk with the Director. DCA SOLID is offering team building classes specifically for Committee and Board members to participate in with Executive Staff. Finally, on April 10, DCA will launch licensing and enforcement workgroups to share best practices and knowledge between boards and bureaus.

Public Comment: None.

- 5) Professional Fiduciaries Bureau Mission Statement –
Ms. May read the Bureau’s mission statement.

Public Comment: None.

- 6) Discussion and Possible Approval of the Advisory Committee Meeting Minutes from November 17, 2017 –
Ms. Federizo motioned to approve the minutes as written. Ms. Akel and Ms. de Vries seconded the motion. A vote by roll call was made: Ms. de Vries, Ms. Federizo, Mr. Gee, Ms. Akel, Ms. Thomson, and Ms. To were in favor. Ms. Chacon was absent for the vote. The motion carried with six votes.

Public Comment: None.

- 7) Budget Report –
Ms. Nicole Dragoo, DCA Budget Analyst, presented the Bureau’s fund condition and expenditure reports. Ms. Dragoo stated the reports are current as of February 2018 and the budget looks good with a projected reversion of approximately \$10,000 at the end of this fiscal year.

Mr. Gee asked what the line item for “other regulatory fees” covers. Ms. Dragoo stated she will research and follow-up with this answer. Mr. Gee also stated that it does not appear the AG line item will be completely spent, and he would like to see these funds used on outreach. Ms. Dragoo replied this is a baseline budget and the funds can be shifted as long as the Bureau does not exceed the total expenditure authority. Ms. To asked about the personnel funding deficit and Ms. Dragoo stated she will discuss Ms. May the possibility of realigning these numbers to more accurately reflect actual spending.

Public Comment: None.

- 8) Legislative Update –
Mr. Alexander Millington, DCA Legislative Affairs Analyst, read the important legislative deadlines in 2018.

- 2018 Legislation Related to the Bureau
 - 1. AB 1779 (Nazarian) Sexual Orientation: Change Efforts
This bill would prohibit a mental health provider from engaging in sexual orientation change efforts with a patient, regardless of age, under a conservatorship or a guardianship.
March 2018 Status: Introduced on January 4, 2018, this bill has been referred to the Assembly Committee on Business and Professions, but has not been scheduled for a hearing.

- 1 2. AB 3144 (Committee on Business and Professions) Professional
2 Fiduciaries Bureau
3 This is the Professional Fiduciaries Bureau sunset bill. As currently
4 written, this bill would extend the sunset date of the Bureau to January 1,
5 2023. A joint Senate and Assembly committee heard testimony from the
6 Professional Fiduciaries Bureau on March 5th.
7 March 2018 Status: Introduced on February 16, 2018, this bill has been
8 referred to the Assembly Committee on Business and Professions, but
9 has not been scheduled for a further hearing.
- 10 3. SB 909 (Hertzberg) Uniform Trust Decanting Act
11 This bill would allow a fiduciary of an irrevocable trust to distribute the
12 property of a first trust to one or more second trusts, or to modify the first
13 trust without the consent of the beneficiaries or approval of a court,
14 subject to certain exceptions. This bill would require notification of
15 affected parties prior to 'decanting' and would create court authority to
16 allow 'decanting' on application by a fiduciary, a beneficiary, or other
17 specified parties.
18 March 2018 Status: Introduced on January 18, 2018, this bill has been
19 referred to the Senate Judiciary Committee, but has not been scheduled
20 for a hearing.

21
22 Ms. Federizo asked if there is a difference in requirements for AB 1779 if the conservator is acting
23 in a limited rather than general capacity. Mr. Millington stated he will check on this and report back
24 at the next meeting.

- 25
26 • 2018 Legislation Related to the Department

27 Mr. Millington stated all bills on this list are dead except for AB 827 which is now a two-year bill as
28 of 9/1/2017, and remains in the second house.

- 29
30 • AB 1380 (Santiago) Developmental services: regional center services – Update on the list
31 of "Specified Convictions" related to this bill.

32
33 At the November 2017 Advisory Committee Meeting, information was requested
34 regarding which 'specified convictions' might prohibit employment as an in-home
35 respite provider under AB 1380 (Santiago), above. Briefly, this bill would place
36 restrictions to employment eligibility for individuals with history of sex crimes,
37 *attempted* child abuse, *attempted* child neglect/endangerment, *attempted* elder or
38 dependent adult abuse, theft, robbery, burglary, or any other felony. Further, this bill
39 would place a bar against individuals with convictions for fraud against a government
40 health care or supportive services program, child neglect/endangerment, and elder
41 or dependent adult abuse.

42 More specifically, AB 1380 would add section 4686.1 to the Welfare and Institutions Code,
43 specifying that in-home respite worker employees must submit fingerprints to the DOJ prior to
44 employment.

45
46 Public Comment: Mr. Jerry Desmond commented on behalf of the Professional
47 Fiduciary Association of California (PFAC) in support of the extension of the
48 Bureau's sunset.

- 49
50 9) Bureau Updates –
51 • Statistics –

Two-Year Fiscal Year Statistics Comparison	As of February 2017	As of February 2018
New Licenses	45	44
Active Licenses	719	734
Total Licenses Issued	977	1,039
Accusations Files	3	1
Citations Issued	1	7
Complaints Received	79	106
Complaints Closed	82	101
Complaints Pending	86	30
Average Days to Close	412	212

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Ms. May stated the Bureau has issued the same number of licenses as last year, but there is an increase of approximately three percent in active licenses. The number of complaints received has increased by about 35 percent, but the Bureau has seen a decrease in the number of pending complaints and average days to close a complaint.

Ms. Jordan Goldstein asked about the increase in complaints. Ms. May accredits this to increased visibility of the Bureau through outreach. Mr. Gee commended the staff on decreasing the average number of days to close a complete and asked what enabled staff to reduce this. Ms. May responded there has been a change in process and the complexity of complaints. Ms. Federizo asked if there is a target percentage to increase licensure each year and Ms. May responded there is not.

- Types of Attorney General Cases –

Ms. May stated cases forwarded to the AG office are citations being formally appealed or an egregious violation of law. Recent examples of cases sent to the AG: a licensee who failed to notify the Bureau she had been removed from a case by the court; failure to provide records to the Bureau upon request by the Bureau; a licensee made false statements to the court and was surcharged by the court; and, a licensee had sold a client's car and forged documents.

- Outreach Events –

A handout was included with outreach events attended since the last advisory meeting and upcoming events. Additional outreach events added since the materials were created. Angela will be attending a senior fraud prevention fair in Yreka and in June heading back to Redding for a resource fair.

- Sunset Review –

Ms. May announced the Sunset Review is now behind us and the joint committee has recommended a four-year extension of the Bureau with AB 3144.

- Update on Occupational Analysis –

Ms. May reported the Occupational Analysis is completed and OPES staff are currently writing the report. The report should be released in early May. During the last workshop, in addition to finishing the occupational analysis, OPES staff were able to conduct the linkage study (i.e., linking the tasks and knowledge collected during the occupational analysis with the Core Competencies of the California

1 Professional Fiduciary Examination provided by the National Guardianship
2 Association). This portion has been completed and we do not need to schedule
3 another workshop to finish the project.

4
5 OPES staff are currently in communication with the Center for Guardianship
6 Certification. Assuming the non-disclosure agreement is signed and OPES receives
7 the information requested, the review should be released by the end of May 2018.

8
9 Public Comment: Ms. Goldstein asked about the psychometric evaluation. Ms. May stated a
10 discussion as to whether changes can be made to the examination between DCA and the
11 examination creator. Ms. May will asked OPES to come to explain.

- 12
13 • Updated on Strategic Plan –

14
15 Ms. May stated Bureau staff met with DCA SOLID team to review answers from the survey
16 provided by stakeholders and a plan was drafted with objectives to be carried out over the next
17 four years. The plan was recently approved by the Director of DCA and an action planning
18 meeting is scheduled for April 25 to plan how each objective will be accomplished.

19
20 Public Comment: None.

21
22 10) Update of Proposed Rulemakings

- 23 • Update regarding Inactive/Retired License Proposed Regulation – Sections 4560-4580 of
24 Article 8 of Title 16 of the California Code of Regulations

25
26 The Bureau has completed the rulemaking file to DCA and it is in the internal review process. The
27 Bureau will update the committee once the file is submitted to the Office of Administrative Law.

28
29 Public Comment: None.

30
31 11) Review and Discussion of Draft Language for Client Notification Proposed Regulations

- 32 • Client Notification Proposed Regulation – Section 4640 of Article 12 of Title 16 of the
33 California Code of Regulations

34
35 Bureau staff has submitted proposed language which has been reviewed by legal counsel and a
36 copy of the proposed language is in the materials. Mr. Chan-You highlighted the changes to the
37 proposed language and stated the clarity issues have been addressed.

38
39 Ms. Federizo asked if she sends a notice to a conservatee and files in the client file is notice
40 served? It doesn't make sense to notice the client even if they do not understand it. Mr. Chan-You
41 stated that is why there is the option of notifying other persons. Ms. Akel asked if licensees are
42 required to notify when the trust is drafted, but sometimes licensee does not know they are named
43 in the trust. Mr. Chan-You explained notice is required once the fiduciary/client relationship
44 begins.

45
46 Break: 10:57-11:05

47
48 Mr. Chan-You read BPC 138 and stated the proposed regulation does not exceed the scope of
49 the statutory section. The Bureau will do further research and present at the next meeting. Ms.
50 Thomson stated the petition for conservatorship lists the licensee and is provided to parties
51 required by the court and asked would this meet the notice requirements? Ms. Federizo added the

1 list is all relatives who are required to be noticed by the court. This is done for transparency and to
2 allow family to contest in court. Ms. Federizo asked what is a natural person and Mr. Chan-You
3 stated anyone who is not a corporation, so a human being. Ms. Federizo also asked if the email
4 sent has to have a confirmation, Mr. Chan-You stated no, the date and time sent is sufficient.
5

6 Public Comment: Ms. Goldstein asked if the text is on the Bureau's website and Mr. Chan-You
7 stated it is in the material packet for this meeting on the website. Ms. Goldstein stated she
8 remembers originally the regulation was to notify how to contact the Bureau and she believes the
9 intent of the law is being expanded. Mr. Desmond stated the draft regulation has progressed and
10 improved. PFAC will submit comments to the Bureau in a couple of weeks. PFAC supports the
11 concept of this regulation.
12

13 12) Discussion and Possible Recommendations from Committee Members for Future Outreach
14 Opportunities

15
16 Ms. May asked for help identifying outreach events from the committee members and
17 stakeholders.
18

19 Public Comment: None.
20

21 13) Solicitation and Discussion of Ideas and Articles from Committee Members for the Professional
22 Fiduciaries Bureau's E-Newsletter
23

24 Ms. May stated she would like to have the newsletter ready to go by June 15 and the deadline for
25 submissions in May 15.

26 Ms. Akel stated she would send some ideas to the Bureau.
27

28 Public Comment: None
29

30 14) Future Agenda Items

- 31 • AB 1779 Differentiate between limited and general?
- 32 • AB 3144 Conversation on proposals
- 33 • OPES to explain the rest of occupational analysis process
- 34 • Client Notification Regulation
- 35 • Strategic Plan
36

37 Public Comment: None.
38

39 15) Future Meeting Dates

40 -Wednesday, May 16, 2018

41 -Wednesday, August 15, 2018

42 -Wednesday, November 7, 2018

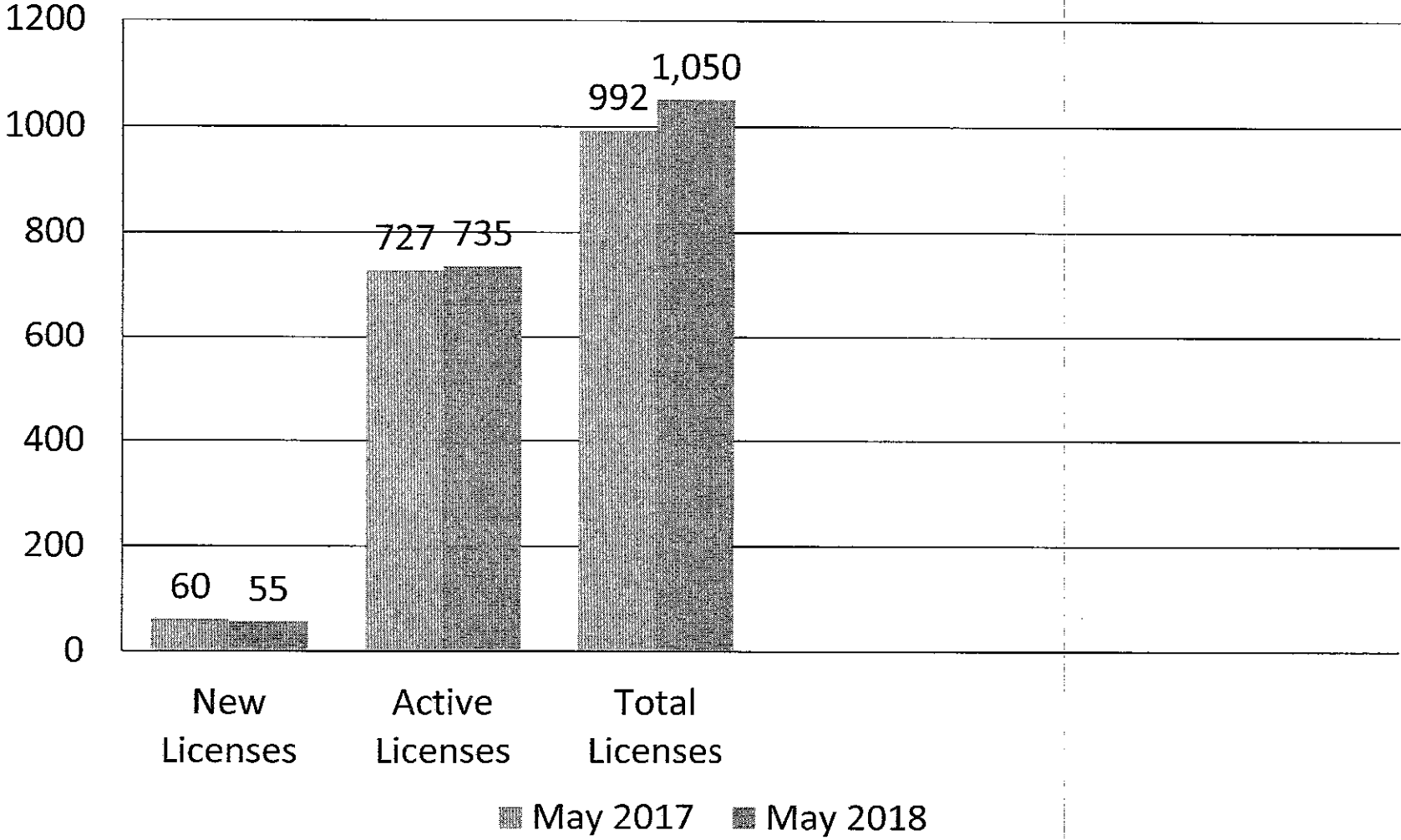
43 There were no conflicts mentioned by any of the committee members.
44

45 Public Comment: None.
46

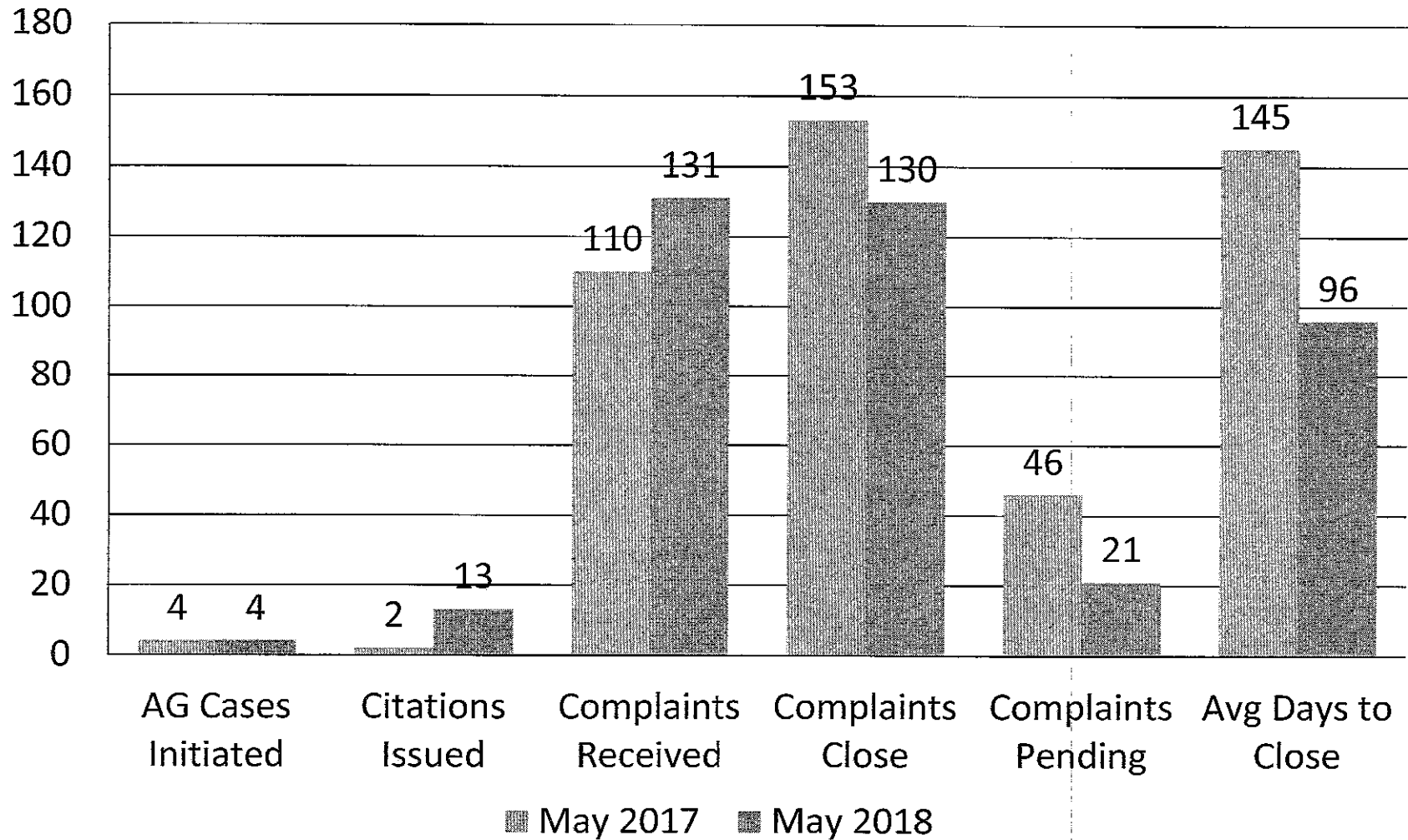
47 16) Public Comment on Items Not on the Agenda – None.
48

49 17) Adjournment – The meeting was adjourned at 11:29 a.m.

Licensing Statistics Two Fiscal Year Comparison



Complaint Statistics Two Fiscal Year Comparison



OUTREACH EVENTS

Since the last Advisory meeting

- Senior Scam Stopper for Senator Bob Wieckowski and Assemblymember Bill Quirk on April 12, 2018 in Castro Valley
- Financial Education Fair on April 16, 2018 at the Mexican Consulate in Sacramento
- California Financial Literacy Month Resource Fair 2018 on April 17, 2018 at the State Capitol
- Annual California Senior Rally on May 8, 2018 at the State Capitol
- 21st Annual Senior Services & Fraud Prevention Fair on May 9, 2018 in Yreka
- Sylvan Old Auburn Road (SOAR) to Healthy Heights on May 17, 2018 in Citrus Heights
- 23rd Annual PFAC Educational Conference in Riverside May 30-June 2, 2018

Upcoming Events

- Estate Planning and Probate Section of the Kern County Bar Association in Bakersfield on Wednesday, October 10, 2018

Professional Fiduciaries Bureau

Strategic Plan

2018-2022

DEPARTMENT OF CONSUMER AFFAIRS

PF**B**

PROFESSIONAL FIDUCIARIES BUREAU

Professional Fiduciaries Bureau

Members of the Professional Fiduciaries Advisory Committee of California

Hang Le To, Public Member Committee Chair

Kathleen Thomson, Probate Court Investigator, Vice Chair

Dawn Akel, Professional Member

Jenny Chacon, Public Member

Aileen Federizo, Professional Member

King F. Gee, Non-Profit Elderly Advocate, Public Member

Barbara de Vries, Professional Member

Edmund G. Brown Jr., Governor

Alexis Podesta, Secretary, Business, Consumer Services and Housing Agency

Dean R. Grafilo, Director, Department of Consumer Affairs

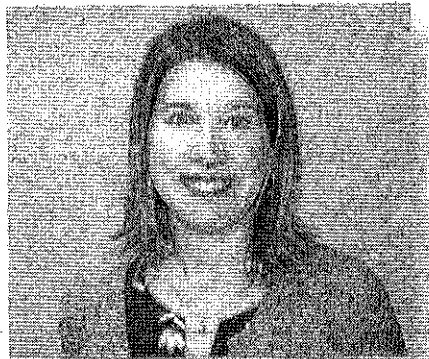
Rebecca May, Bureau Chief, Professional Fiduciaries Bureau

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Message from the Bureau Chief

On behalf of the Professional Fiduciaries Bureau (Bureau), I am pleased to present our 2018-2022 Strategic Plan.



The strategic planning process provided the Bureau an opportunity to examine its mission and values, gauge successes, and determine how to improve outcomes. The product of this effort, this Strategic Plan, will serve as a roadmap for the Bureau's future – one that clearly defines our goals and sets corresponding objectives toward reaching those goals.

The Bureau's sole purpose is the protection of consumers through the licensure and regulation of professional fiduciaries. With this Strategic Plan in place, our Bureau has achievable benchmarks to foster our success in meeting this mandate.

This document is the result of a partnership by the Department of Consumer Affairs' SOLID team and Bureau staff, that includes valuable feedback from our Advisory Committee, licensees, and stakeholders. I am grateful for the time and effort of all participants and I am pleased to share the result of our work with you.

Rebecca May, Bureau Chief

About the Professional Fiduciaries Bureau

The Professional Fiduciaries Bureau (Bureau) was established via legislation in 2007 for the purpose of regulating non-family member professional fiduciaries, including conservators, guardians, trustees, and agents under durable power of attorney as defined by the Professional Fiduciaries Act. The Professional Fiduciaries Act is comprised of the Business and Professions Code Section 6500, et. seq. and the California Code of Regulations, Title 16, Section 4400 -4622.

Professional Fiduciaries provide critical services to seniors, persons with disabilities, and minors. Professional Fiduciaries manage matters for clients such as daily care, housing and medical needs along with offering financial management services ranging from bill paying to estate and investment management.

The mandate of the Bureau is to protect and serve the consumer by licensing and by enforcing the Professional Fiduciary Act and its regulations. To accomplish this, the Bureau ensures only applicants possessing the required education and experience qualifications, and examination requirements receive licenses.

Requirements for licensing include passing a background check and an examination, completing thirty (30) hours of approved education courses, and earning fifteen (15) hours of continuing education credit each year for license renewal.

The enabling statute to license Professional Fiduciaries also established the Professional Fiduciary Advisory Committee (Committee). The Committee is comprised of a total of seven (7) members as listed in the table below:

Committee Member	Members	Appointed By
Public Members	2	One member by Senate Rules Committee and one member by Speaker of the Assembly
California licensed professional fiduciary members	3	Governor
Probate court investigator	1	Governor
Non-profit organization advocating on behalf of the elderly	1	Governor

The Governor also appoints the Bureau Chief. Bureau staff consists of three permanent positions.

The Bureau continually strives to enforce its mandate and mission in the most efficient manner by exploring new and/or revised policies, programs, and processes. The Bureau also actively works to increase the quality and availability of services, as well as providing courteous and competent service to all stakeholders.

Recent Accomplishments

As a part of the strategic planning process, the Advisory Committee evaluated its previous strategic plan goals and identified which objectives were accomplished. The following are the significant Bureau accomplishments since the 2014 strategic plan was adopted:

- Hired one additional full-time enforcement analyst;
- Created retired and canceled license types in statute;
- Increased our outreach efforts to both the public and potential licensees;
- Created two videos to explain the licensing and renewal process for posting on the Bureau's website;
- Updated the Bureau's website to better clarify the complaint process; and,
- Established social media accounts for the Bureau.

Mission, Vision, and Values

Mission

To protect consumers through licensing, education, and enforcement of the Professional Fiduciaries Act by promoting and upholding competency and ethical standards across the profession.

Vision

Safeguarding the well-being of consumers who receive professional fiduciary services.

Values

Consumer Protection

Professionalism

Responsive

Teamwork

Transparency

Strategic Goals

1. Licensure

Promote licensing standards and entry into the profession while safeguarding consumers.

2. Enforcement

Protect consumer quality of life by the enforcement of laws and regulations governing the fiduciary profession.

3. Communication and Outreach

Proactively inform consumers and licensees about the practice, regulation, and developments that affect the fiduciary profession.

4. Professional Education

Enhance consumer protection through initial and continuing education requirements for licensees.

5. Regulation and Legislation

Protect consumers by enhancing regulation and legislation to meet evolving industry challenges.

6. Administration

Efficiently use resources and personnel to meet Bureau goals and objectives.

Goal 1: Licensure

Promote licensing standards and entry into the profession while safeguarding consumers.

- 1.1 Increase licensee population to facilitate consumer access to fiduciaries.
- 1.2 Create and develop an apprentice program as a pathway to licensure to promote increased knowledge and experience within the profession.
- 1.3 Conduct an occupational analysis to update the examination to meet Business and Professions Code § 139 and study guides to better represent the entry level qualifications of the profession.
- 1.4 Implement an online application and renewal process to improve the efficiency of the current application and renewal process.
- 1.5 Revise and update website with concise information to improve the ease of licensee and consumer navigation.

Goal 2: Enforcement

Protect consumer quality of life by the enforcement of laws and regulations governing the fiduciary profession.

- 2.1 Review laws and regulations for clarity to enhance enforcement authority.
- 2.2 Update website to include enforcement procedures to increase understanding and transparency.
- 2.3 Explore updating the database so the website reflects removals and resignations to better inform consumers.
- 2.4 Determine the feasibility of utilizing an internal consultant to assist with reviewing enforcement cases.

Goal 3: Communication and Outreach

Proactively inform consumers and licensees about the practice, regulation, and developments that affect the fiduciary profession.

- 3.1 Disseminate information about common violations as a strategy to reduce enforcement actions.
- 3.2 Strengthen relationships with other regulatory agencies, professional associations, and advocacy organizations to educate consumers about the Bureau.
- 3.3 Re-establish biannual newsletter to increase communication with all stakeholders.
- 3.4 Partner with the Department of Consumer Affairs' Office of Public Affairs to determine a communication strategy to improve communication.
- 3.5 Collaborate to identify opportunities for participation in outreach events to increase awareness of the Bureau and the fiduciary profession.
- 3.6 Review and update all Bureau informational materials to provide current and accurate information.

Goal 4: Professional Education

Enhance consumer protection through initial and continuing education requirements for licensees.

- 4.1 Determine the feasibility of restructuring the Continuing Education requirements to align course content with professional fiduciary practice.
- 4.2 Develop guidelines for approving Continuing Education providers to increase consistency and efficiency in the approval process.
- 4.3 Oversee the development of the professional fiduciary's code of ethics training to promote licensee awareness and compliance.

Goal 5: Regulation and Legislation

Protect consumers by enhancing regulation and legislation to meet evolving industry challenges.

- 5.1 Review and amend laws and regulations for clarity and licensee understanding of the laws and regulations governing the practice of a professional fiduciary.
- 5.2 Identify statutory and regulatory proposals to strengthen the Professional Fiduciary Act.
- 5.3 Promulgate regulations related to inactive and retired license status to accurately reflect licensee status.
- 5.4 Promulgate regulations related to client notification to protect consumers by informing them of the Bureau's contact information.
- 5.5 Promulgate disciplinary guidelines to standardize sanctions in disciplinary cases.

Goal 6: Administration

Efficiently use resources and personnel to meet Bureau goals and objectives.

- 6.1 Explore ways to utilize the Advisory Committee members to benefit from their expertise.
- 6.2 Monitor budget and staffing to achieve Bureau's licensing, education, and enforcement mandates.
- 6.3 Develop and implement internal procedural manuals for continuity and workforce succession planning.
- 6.4 Establish ongoing training plan with the Department of Consumer Affairs' Consumer Information Center staff to effectively respond to inquiries.
- 6.5 Pursue opportunities for staff training relating to the fiduciary profession to increase knowledge about the practice.

Planning Process

To understand the environment in which the Bureau operates as well as identify factors that could impact the Bureau's success in carrying out its regulatory duties, the Department of Consumer Affairs' SOLID Unit conducted an environmental scan of the Bureau's internal and external environments by collecting information through the following methods:

- Online survey sent to Bureau stakeholders in October 2017. The online survey received 176 responses.
- Telephone interviews and online survey conducted with Advisory Committee members in October 2017. A total four responses from both methods.
- Interview conducted with Bureau Chief in October 2017.
- An online survey sent to Bureau staff in October 2017. The online survey received three responses.

The most significant themes and trends identified from the environmental scan were discussed among the Bureau Chief, staff, and the Chief of the Department of Consumer Affairs' Division of Programs & Policy Review during a strategic planning session facilitated by SOLID on January 4, 2018. This session guided the refinement of the Bureau's mission, vision, and values. This information guided the Bureau in the development of its strategic objectives outlined in this 2018–2021 strategic plan.



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Strategic plan adopted on 2018.

This strategic plan is based on stakeholder information and discussions facilitated by SOLID for the Professional Fiduciaries Bureau in January 2018. Subsequent amendments may have been made after the Bureau's adoption of this plan.

BUDGET REPORT
Expenditure Projection
April / FM 10

Object Description	FY 2016-17		FY 2017-18				
	Actual EXPENDITURES Month 13	Prior Year EXPENDITURES Month 10	Budget Allotment	Current Year EXPENDITURES Month 10	Percent Spent	Projections to Year End	Unencumbered Balance
PERSONNEL SERVICES							
Salary & Wages (Staff)	110,184	93,508	108,000	87,876	81%	117,407	(3,407)
Statutory Exempt	6,918	0	77,000	70,200	91%	93,600	(18,600)
Temp Help (Seasonal)	37,258	18,695	22,000	32,477	148%	32,477	(10,477)
Temp Help (Exam Proctor)	0	0	0	0	0%	0	0
Board Member Per Diem	2,500	0	0	0	0%	0	0
Committee Members	0	1,800	0	1,300	0%	2,000	(2,000)
Overtime	66	66	0	0	0%	0	0
Staff Benefits	67,955	53,608	111,000	82,281	74%	98,737	12,263
TOTALS, PERSONNEL SVCS	224,781	167,677	318,000	274,134	86%	344,221	(26,221)
OPERATING EXPENSE AND EQUIPMENT							
General Expense	2,305	1,922	5,000	307	6%	368	4,632
Fingerprint Reports	59	59	0	59	0%	59	0
Minor Equipment		0	0	0	0%	0	0
Printing	3,843	2,810	1,000	1,177	118%	1,610	(510)
Communication	459	315	1,000	391	39%	570	430
Postage	1,190	993	2,000	0	0%	1,190	810
Insurance	3	3	0	885	0%	885	(885)
Travel In State	2,972	1,210	4,000	2,945	74%	3,534	466
Travel, Out-of-State		0	0	0	0%	0	0
Training	10	10	1,000	0	0%	0	1,000
Facilities Operations	39,521	39,311	32,000	30,067	94%	36,080	(4,020)
Utilities		0	0	0	0%	0	0
C&P Services Interdept.		0	3,000	12	0%	14	2,986
C&P Services - External	2,302	2,302	0	6,424	0%	7,222	(7,222)
DEPARTMENTAL SERVICES							
Office of Information Services Pro Rata	19,276	18,670	35,000	29,167	83%	35,000	0
Administration Pro Rata	37,853	30,000	41,000	34,167	83%	41,000	0
Interagency Services with OPES	100,060	2,016	4,000	3,333	83%	4,000	0
DOI - Special Ops Unit Pro Rata	920	830	1,000	833	83%	1,000	0
Communication Prorata	14,446	12,500	2,000	1,667	83%	2,000	0
Public Policy Review Division Pro Rata	654	830	22,000	18,333	83%	22,000	0
INTERAGENCY SERVICES:							
Information Technology		0	1,000	200	0%	200	800
DP Maintenance & Supplies	585	585	0	0	0%	500	(500)
EXAM EXPENSES:							
Exam Supplies		0	0	0	0%	0	0
Exam Freight		0	0	0	0%	0	0
Exam Site Rental		0	0	0	0%	0	0
Exam Contracts		0	0	0	0%	0	0
Exam Experts		0	0	0	0%	0	0
ENFORCEMENT:							
Attorney General	25,918	21,753	66,000	22,110	34%	26,532	39,468
Office of Admin. Hearings	2,161	2,004	0	6,245	0%	7,494	(7,494)
Court Reporter Services		0	0	0	0%	0	0
Evidence / Witness Fees		0	0	0	0%	0	0
Major Equipment		0	0	0	0%	0	0
TOTALS, OE&E	254,537	136,123	221,000	158,322	72%	191,259	29,800
TOTAL EXPENSES	479,318	303,800	539,000	432,456	80%	536,480	3,579
Scheduled/Unsch Reimbursements	(1,000)	0	(1,000)	0	0%	(1,000)	0
NET APPROPRIATION	478,318	303,800	538,000	432,456	80%	534,480	3,579
				Surplus/(Deficit):			1%

Professional Fiduciaries Bureau June 20, 2018 Legislative Update

Important Legislative Dates – Spring 2018

- **June 15** - Budget Bill must be passed by midnight
- **June 29** - Last day for **policy committees** to hear and report **fiscal bills** to fiscal committees
- **July 6** - Last day for policy committees to meet and report bills. Summer Recess begins upon adjournment
- **August 6** - Legislature reconvenes from Summer Recess
- **August 17** - Last day for fiscal committees to meet and report bills
- **August 24** - Last day for bills to be amended on the floor
- **August 31** - Last day to pass bills. Recess begins upon adjournment

2017 Legislation Related to the Bureau

AB 1247 (Nazarian) Professional fiduciaries: prelicensing education

This bill was amended on June 4 from a bill unrelated to the Bureau to a bill that would require applicants for professional fiduciary licensure to complete prelicensing education which includes instruction in “understanding and applying cultural and ethnic data to the process of care that includes information on the appropriate treatment of, and provision of care to, the lesbian, gay, bisexual, transgender, and intersex communities.”

June 2018 Status: In Senate, referred to the Business, Professions, and Economic Development Committee for hearing on June 18.

AB 1779 (Nazarian) Sexual Orientation: Change Efforts

This bill would prohibit a mental health provider from engaging in sexual orientation change efforts with a patient who is under a conservatorship or a guardianship. Any sexual orientation change efforts attempted on a patient, regardless of age, under a conservatorship or a guardianship by a mental health provider would be considered unprofessional conduct and subject a mental health provider to discipline by the licensing entity.

June 2018 Status: This bill failed the policy committee deadline for fiscal bills and is now dead.

AB 2113 (Oberholte) Estates and Trusts: Guardianships

This bill would establish that a guardianship of the estate terminates upon the death of a ward unless otherwise provided by law.

June 2018 Status: In Senate, on floor, referred to the consent calendar.

AB 2236 (Maienschein) Conservatorships

This bill would establish that a conservatorship terminates upon the death of a ward unless otherwise provided by law.

June 2018 Status: In Senate, on floor, referred to the consent calendar.

AB 2426 (Maienschein) Trustee: Power to Terminate Trust

This bill would extend a trustee's authority to unilaterally terminate a trust from trusts not exceeding \$40,000 to trusts not exceeding \$50,000 in total value.

June 2018 Status: In Senate, on floor, referred to the consent calendar.

AB 2750 (Oberholte) Certified Copies of Death Records

This bill would authorize conservators of the estate or person the right to obtain certified death records from state and local registrars and county recorders. Currently, conservators of the estate or person may request a certified copy of a death certificate through a funeral establishment, but not directly with the state or local registrar or county recorder.

June 2018 Status: In Senate, on floor, referred to the appropriations committee for hearing on June 25.

AB 3144 (Assembly Committee on Business and Professions) Professional Fiduciaries Bureau

This bill would extend the sunset date of the Professional Fiduciaries Bureau from January 1, 2018, to January 1, 2023.

June 2018 Status: In Senate, assigned to the Appropriations Committee for hearing on June 25.

SB 909 (Hertzberg) Uniform Trust Decanting Act

This bill would allow a fiduciary of an irrevocable trust to distribute the property of a first trust to one or more second trusts, or to modify the first trust without the consent of the beneficiaries or approval of a court, subject to certain exceptions. This bill would require notification of affected parties prior to 'decanting' and would create court authority to allow 'decanting' on application by a fiduciary, a beneficiary, or other specified parties. This bill was amended on June 13 to include pre-decanting duties of a fiduciary and specific warnings required for the notice of decanting.

June 2018 Status: In Senate, referred to the Appropriations Committee.

SB 931 (Hertzberg) Conservatorships: Custody Status

The bill would expand the authority of a person or their designee in charge of providing mental health treatment at a county jail, allowing that person or designee to recommend a conservatorship for an individual determined to be gravely disabled. This bill would also prohibit conservatorship investigators from failing to schedule an investigation based on the custody status of the individual subject to that investigation.

June 2018 Status: In Assembly, referred to the Committees on Health for hearing June 26.

SB 1011 (Roth) Proceeding to Establish Limited Conservatorship: Person with Developmental Disabilities

This bill would have authorized a petition to establish a limited conservatorship for an individual with developmental disabilities to be supplemented by information contained in the prospective conservatee's most recent Individual Program Plan.

June 2018 Status: This bill failed the policy committee deadline for fiscal bills and is now dead.

2017 Legislation Related to the Department of Consumer Affairs

AB 767 (Quirk-Silva): Master Business License Act

This bill would create within the Governor's Office of Business and Economic Development, or its successor, a business license center to develop and administer an online master business license system to simplify the process of engaging in business in this state.

June 2018 Status: In Senate, referred to Committee on Business, Professions, & Economic Development for hearing June 25.

AB 827 (Rubio) Department of Consumer Affairs: Task force: Foreign-Trained Professionals

This bill would require the Department to create an entity to provide high-skill immigrants with information relating to the application process with Department programs.

June 2018 Status: This is a two-year bill as of 9/1/17. No further action has yet been taken on this bill.

AB 1380 (Santiago) Developmental Services: Regional Center Services

This bill, would require regional centers to develop a process by which all vendor contracts are reviewed at least once every two years, and requires the outcome of those reviews shall be documented in the regional center's files. Additionally, this bill would require an employer to submit the fingerprints of a prospective in-home respite worker to the Department of Justice for a criminal background check prior to employment and would prohibit employment as an in-home respite provider if an applicant has specified convictions. This bill would also require the Department of Developmental Services to conduct an in-depth review of in-home respite provider rates, as specified, and report results to the Legislature.

June 2018 Status: This bill remains in the Senate Appropriations Committee, referred to the suspense file.

AB 2138 (Chiu) Licensing Boards: Denial of Application: Revocation or Suspension of Licensure: Criminal Conviction

This bill would ease the restrictions regarding licensure requirements for prior offenders by limiting a board's discretion to deny a new license application, or suspend or revoke an existing license to cases where the applicant or licensee was formally convicted of a substantially related crime or subjected to formal discipline by a licensing board. Nonviolent offenses older than five years would also not be eligible for license denial or suspension.

June 2018 Status: In Senate, referred to the Business, Professions, and Economic Development Committee for hearing on June 18, and to the Public Safety Committee for hearing on June 26.

AB 2264 (Brough) Professions and Vocations: Fees

This was a spot bill relating to the Department of Consumer Affairs.

June 2018 Status: This bill failed the policy committee deadline for fiscal bills and is now dead.

AB 2409 (Kiley) Professions and Vocations: Occupational Regulations

This bill would have prohibited boards from using a person's criminal record as an automatic or mandatory permanent bar to licensure.

June 2018 Status: This bill failed the policy committee deadline for fiscal bills and is now dead.

AB 2483 (Voepel) Indemnification of public officers and employees: antitrust awards

This bill would require a public entity to pay a judgment or settlement for treble damage antitrust awards against a member of a regulatory board within the Department of Consumer Affairs for an act or omission occurring within the scope of the member's official capacity as a member of that regulatory board.

June 2018 Status: In Senate, referred to the Committee on Judiciary for hearing June 26.

AB 3183 (Carrillo) Consumers

This is currently a spot bill that would make nonsubstantive changes to Section 301 of the Business and Professions Code, which states the Legislature's intent to promote, protect, and advance the interests of the people as consumers. This bill is unlikely to move this year.

June 2018 Status: This bill failed the deadline to move nonfiscal bills to the floor and is now dead.

SB 984 (Skinner) State Boards and Commissions: Representation: Women

This bill would require all appointed state boards and commissions to be comprised of a specific number of women based on the total number of board or commission members. This bill would also require the office of the Governor to collect and release aggregated demographic data provided by state board and commission applicants, nominees, and appointees.

June 2018 Status: In Assembly, referred to the Committee on Judiciary and the Committee on Accountability and Administrative Review.

SB 1137 (Vidak) Veterans: Professional Licensing Benefits

This bill would require the Department of Veterans Affairs and the Department of Consumer Affairs to consult with each other in order to take appropriate steps to increase awareness and notification for veterans regarding professional licensing benefits. This bill was amended on June 14 to include spouses of veterans.

June 2018 Status: In Assembly, referred to the Business and Professions Committee for hearing on June 26.

SB 1371 (Morrell) Occupational Licensing: List

This bill would have adjusted the list of entities overseen by the Department of Consumer Affairs.

June 2018 Status: This bill failed the policy committee deadline for fiscal bills and is now dead.

SB 1465 (Hill) Contractors: civil actions: reporting.

This bill was amended to impact the Contractors State License Board and is no longer a DCA-wide bill. This bill was gutted and amended in April; it was previously entitled "Professions and Vocations: Examinations."

June 2018 Status: In Assembly, referred to the Business and Professions Committee for hearing on June 28.

Follow-up Information from the February 2018 Meeting

- 1) *General and Limited Conservatorships in Regard to AB 1779 (Nazarian) Sexual orientation: change efforts*

At the February 2018 Advisory Committee Meeting, information was requested regarding whether AB 1779 (Nazarian) drew a distinction between different types of guardianships (e.g. full versus limited guardianships). It did not. The full language of the first section of the bill was:

"Under no circumstances shall a mental health provider engage in sexual orientation change efforts with a patient under 18 years of ~~age~~, age, or with a patient, regardless of age, under a conservatorship or a guardianship."

Discussion of Legislative Proposals Related to AB 3144

- 1) **Requiring licensure of decedent estate administrators:** would require individuals providing estate administration services to deceased persons to be licensed through the Professional Fiduciaries Bureau.
- 2) **Limiting Enrolled Agents from licensing exemption:** would limit the exemption of IRS enrolled agents from the practice act by clarifying that the exemption applies only to those agents who *only* act within the scope of their authority as an IRS enrolled agent.
- 3) **Billing clients for responding to complaints:** would prohibit licensees of the Professional Fiduciaries Bureau from billing their clients for time spent responding to complaints filed with the Bureau, whether on the licensee's own behalf or on behalf of any agent working with the licensee, including an attorney.
- 4) **Additional pathway to licensure:** creates an additional pathway to licensure as a professional fiduciary by authorizing the Professional Fiduciaries Bureau (Bureau) to license individuals who have earned five years of experience either

working for a professional fiduciary, or serving as a conservator, guardian, trustee, or agent under a durable power of attorney for health care or finances (hereafter power of attorney). Further, this requires applicants using experience as a minimum qualification for licensure to demonstrate substantive fiduciary responsibilities in their prior experience, whether obtained individually or while employed by a professional fiduciary or qualifying entity.

- 5) **Reporting requirements for fiduciaries removed as a direct cause of a complaint filed with the bureau:** clarifies current reporting requirements for licensees of the Professional Fiduciaries Bureau. Specifically, this requires licensed professional fiduciaries to report client cases in which they have been removed for cause as an agent under a durable power of attorney for health care and/or finances (hereafter: power of attorney), and report client cases in which they resigned as the direct result of a complaint filed with the court to the Bureau.

Draft Amendments – Professional Fiduciaries Act
Draft Dated February 14, 2018

Issue #1 Requirement of Licensure of Decedent Estate Administrators

The protection of consumers will be enhanced by requiring licensure of those persons who are appointed by the courts to administer the estates of the deceased.

These individuals are providing fiduciary services as that are addressed by the licensure and practice requirements of the Professional Fiduciaries Act. It is important to provide for the protection of the estate since the individual is deceased and therefore not involved in any decisions.

Draft Text

6501. As used in this chapter, the following terms have the following meanings:

- (a) "Act" means this chapter.
- (b) "Bureau" means the Professional Fiduciaries Bureau within the Department of Consumer Affairs, established pursuant to Section 6510.
- (c) "Client" means an individual who is served by a professional fiduciary.
- (d) "Department" means the Department of Consumer Affairs.
- (e) "Licensee" means a person licensed under this chapter as a professional fiduciary.
- (f) (1) "Professional fiduciary" means:
 - (i) A person who acts as a *guardian or conservator* of the person, the estate, or *the person and estate, guardian of the estate, or person and estate*, for two or more individuals at the same time who are not related to the professional fiduciary or to each other.
 - (ii) A personal representative of a decedent's estate as defined in Section 58 of the Probate Code, for two or more individuals at the same time who are not related to the professional fiduciary or to each other.
- (2) "Professional fiduciary" also means a person who acts as a trustee, agent under a durable power of attorney for health care, or agent under a durable power of attorney for finances, for more than three individuals, at the same time.

In counting individuals under this paragraph to determine whether a person is a professional fiduciary:

- (A) Individuals who are related to the fiduciary shall not be counted.
- (B) All individuals who are related to each other shall be counted as one individual.

(C) All trustors who are related to each other shall be counted as one individual, and neither the number of trusts nor the number of beneficiaries of those trusts shall be counted.

(3) For purposes of this subdivision, "related" means related by blood, adoption, marriage, or registered domestic partnership.

(4) "Professional fiduciary" does not include any of the following:

(A) A trust company, as defined in Section 83 of the Probate Code.

(B) An FDIC-insured institution, or its holding companies, subsidiaries, or affiliates. For the purposes of this subparagraph, "affiliate" means any entity that shares an ownership interest with, or that is under the common control of, the FDIC-insured institution.

(C) Any public agency, including the public guardian, public conservator, or other agency of the State of California or of a county of California or any regional center for persons with developmental disabilities as defined in Section 4620 of the Welfare and Institutions Code.

(D) Any nonprofit corporation or charitable trust that is described in Section 501(c)(3) of the Internal Revenue Code and that satisfies all of the following requirements:

(i) Is an organization described in Section 509(a)(1), Section 509(a)(2), or Section 509(a)(3) of the Internal Revenue Code.

(ii) Has been in existence for at least five years.

(iii) Has total institutional funds as described in subdivision (e) of Section 18502 of the Probate Code according to its most recent audited financial statement with a value of at least two million dollars (\$2,000,000) net of encumbrances.

(iv) Is acting as a trustee, incidental to the purposes for which it was organized, of a trust that meets at least one of the following conditions:

(I) It is a trust from which annual distributions are limited to income, a sum certain, or a fixed percentage of the net fair market value of the trust assets as described in Section 664(d) of the Internal Revenue Code governing charitable remainder trusts.

(II) It is a trust from which annual distributions are limited to a guaranteed annuity or a fixed percentage of the fair market value of the property as described in Section 2055(e)(2)(B) or Section 2522(c)(2)(B) of the Internal Revenue Code.

(III) It is a trust from which annual distributions are limited to income, including a pooled income fund from which annual distributions are limited to income as described in Section 642(c)(5) of the Internal Revenue Code governing pooled income funds.

(IV) It is a trust as to which the value of the charitable interest was presently ascertainable upon creation of the trust and deductible for federal gift, estate, or income tax purposes under the Internal Revenue Code as in effect prior to enactment of the federal Tax Reform Act of 1969 (Public Law 91-172).

(E) A person employed by or acting as an agent on behalf of an entity or agency described in subparagraph (A), (B), (C), or (D) who is acting within the course and scope of that employment or agency, and a public officer of an agency described in subparagraph (C) acting in the course and scope of official duties.

(F) Any person whose sole activity as a professional fiduciary is as a broker-dealer, broker-dealer agent, investment adviser, or investment adviser representative registered and regulated under the Corporate Securities Law of 1968 (Division 1 (commencing with Section 25000) of Title 4 of the Corporations Code), the Investment Advisers Act of 1940 (15 U.S.C. Sec. 80b-1 et seq.), or the Securities Exchange Act of 1934 (15 U.S.C. Sec. 78a et seq.), or involves serving as a trustee to a company regulated by the Securities and Exchange Commission under the Investment Company Act of 1940 (15 U.S.C. Sec. 80a-1 et seq.).

(g) "Committee" means the Professional Fiduciaries Advisory Committee, as established pursuant to Section 6511.

Appendix

Probate Code Section 58.

58. (a) "Personal representative" means executor, administrator, administrator with the will annexed, special administrator, successor personal representative, public administrator acting pursuant to Section 7660, or a person who performs substantially the same function under the law of another jurisdiction governing the person's status.

(b) "General personal representative" excludes a special administrator unless the special administrator has the powers, duties, and obligations of a general personal representative under Section 8545.

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Draft Legislation
Business and Professions Code Section 6530

6530. (a) On and after January 1, 2009, no person shall act or hold himself or herself out to the public as a professional fiduciary unless that person is licensed as a professional fiduciary in accordance with the provisions of this chapter.

(b) ~~This section does not apply to a person licensed as an attorney under the State Bar Act (Chapter 4 (commencing with Section 6000)).~~

(c) This section does not apply to a person licensed as, and acting within the scope of practice of, a certified public accountant pursuant to Chapter 1 (commencing with Section 5000) of Division 3.

(d) This section does not apply to a person enrolled as an agent to practice before the Internal Revenue Service who is only acting within the scope of practice pursuant to Part 10 of Title 31 of the Code of Federal Regulations.

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Occupational Analysis

The Fiduciary Occupational Analysis is completed and the report has been delivered to the Professional Fiduciaries Bureau. Heidi will make a presentation to the Bureau if desired at a future meeting.

Review of the Psychometric Quality the California Professional Fiduciary Exam

OPES staff are currently in communication with the Center for Guardianship Certification. Currently the Center for Guardianship Certification legal team is reviewing the nondisclosure agreement. Assuming the non-disclosure agreement is signed and OPES receives the information requested, the review should be completed by the end of July 2018.

§4640. Client Notification.

(a) Every licensee engaged in licensed activity as a professional fiduciary, shall provide notice reasonably calculated to be received by the licensee's clients of the fact that the licensee is licensed by the California Professional Fiduciaries Bureau (Bureau). For purposes of this section, "licensee" means an individual who is licensed by the Bureau and "client" means an individual who is receiving or is immediately about to receive professional fiduciary services from the licensee. Notice shall be provided by one of the following methods:

(1) Provide a written notice by mail, in person, or by electronic correspondence, as described in subsection (b), to the client or to any individual the licensee reasonably deems would constitute notice to the client.

(2) Include a written notice, as described in subsection (b), in at least 12point type either in:

- (i) all official written or electronic correspondence to the client or to any individual the licensee reasonably deems would constitute notice to the client, or
- (ii) on a contract for services where the notice is placed immediately above the signature line for the client.

(b) The written notice, as described in subdivision (a), shall consist of the following language:

NOTIFICATION TO CONSUMERS

_____ (insert name) is a Professional Fiduciary licensed and regulated by the State of California, Department of Consumer Affairs, Professional Fiduciaries Bureau. Telephone and Website: (916) 574-7340 www.fiduciary.ca.gov

NOTE: Authority cited: Sections 138 and 6517 of the Business and Professions Code.
Reference: Sections 138, 6530, 6532 and 6533 of the Business and Professions Code.