

**Professional Fiduciaries Bureau
Advisory Committee Meeting**

Wednesday, May 29, 2019
10:00a.m. – 1:00p.m. or until conclusion

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

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 January 9, 2019
- 6) Update from the Director's Office – DCA Executive Staff
- 7) Budget Report – DCA Budget Analyst
 - Budget Overview and Update
- 8) Legislative Update and Discussion – DCA Legislative Analyst
 - AB 473 (Maienschein) Disposition of Estate without Administration
 - AB 797 (Grayson) Financial abuse of elder adults
 - AB 1378 (Irwin) Standby guardianship of minors
 - AB 1396 (Oberholte) Protective orders: elder and dependent adults
 - AB 1572 (Chen) Mental health services: gravely disabled
 - AB 1721 (Lackey) Crimes: elder or dependent adult abuse

- SB 303 (Wieckowski) Guardians and conservators: compensation: residence of conservatee
 - SB 308 (Jones) Estates and trusts: instrument
 - SB 314 (Dodd) Elders and dependent adults: abandonment
 - SB 338 (Hueso) Senior and disability victimization: law enforcement policies
 - SB 492 (Galgiani) Elder or dependent adult abuse
 - SB 496 (Moorlach) Financial abuse of elder or dependent adults
- 9) Bureau Updates – Rebecca May, Bureau Chief
- Application, Licensing and Enforcement Statistics
 - Outreach Events
 - E-Newsletter
- 10) Proposed Rulemakings – Rebecca May, Bureau Chief
- Update Regarding Proposed Inactive/Retired License Regulation Sections 4560-4580 of Article 8 of Title 16 of the California Code of Regulations
 - Update Regarding Proposed Client Notification Regulation Section 4640 of Article 12 of Title 16 of the California Code of Regulations
 - Update Regarding Proposed Advertising Regulation Section 4485 of Article 4 of Title 16 of the California Code of Regulations and Amendment to Section 4406 of Article 1 of the California Code of Regulations and Proposed Amendments to Citation Sections 4600 and 4606 of Article 10 of Title 16 of the California Code of Regulations
 - Announcement of Proposed Addition of Section 4521 and Amendments to Sections 4520, 4522, 4620 and 4622 of Article 4 of Title 16 of the California Code of Regulations
- 11) Discussion of Future Rulemaking Proposals
- 12) Future Agenda Items
- 13) Future Meeting Dates
- Wednesday, August 14, 2019
 - Wednesday, November 13, 2019
- 14) Election of 2019 Chair and Vice Chair – Rebecca May, Bureau Chief
- 15) Public Comment on Items Not on the Agenda (See “Note” below)
- 16) Adjournment

Please note: In accordance with the Bagley-Keene Open Meeting Act, all meetings of the Bureau 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 Angela Cuadra at (916) 574-7341 or by email at angela.cuadra@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.



**Professional Fiduciaries Bureau (Bureau)
Advisory Committee Meeting
Wednesday, January 9, 2019**

Meeting Minutes

Committee Members Present

Hang Le To, Chair
Kathleen Thomson, Vice Chair
Wendy Hatch
James Moore

Committee Members Absent

Barbara de Vries
Aileen Federizo
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 11:00 a.m. and stated the meeting date and location.
- 2) Roll Call & Establishment of Quorum –
Ms. Cuadra called roll. Committee members Ms. Hang Le To, Ms. Kathleen Thomson, Ms. Wendy Hatch, and Mr. James Moore were present at meeting location 1747 N. Market Blvd, 1st Floor Hearing Room, Sacramento, CA 95834. Ms. Barbara de Vries, Ms. Aileen Federizo and Mr. King Gee were absent. A quorum was established with four members present.
- 3) Advisory Committee, Bureau Chief, Staff and Legal Counsel Introductions – Committee Members introduced themselves.

Public Comment: None.

- 4) Reading of the Professional Fiduciaries Bureau Mission Statement –
Ms. May read the Bureau's mission statement.

Public Comment: None.

5) Discussion and Possible Approval of the Advisory Committee Meeting Minutes from November 7, 2018 –

Ms. Thomson motioned to approve the minutes as written. Mr. Moore seconded the motion. A vote by roll call was made: Ms. To, Ms. Thomson, Ms. Hatch, and Mr. Moore were in favor. Ms. de Vries, Ms. Federizo, and Mr. Gee were absent for the vote. There was no discussion from the committee members and the motion carried with four votes.

Public Comment: The two members who motioned to approve the minutes were not present at the last meeting.

6) Update from the Director's Office –

Ms. Karen Nelson, Assistant Deputy Director, Office of Board and Bureau Services, reported DCA held nine licensing and enforcement work groups, three substance abuse coordination workshops, four Director's quarterly meetings, and two Director's board and committee member leadership meetings. DCA's annual report is now posted on line. There is mandatory training this year for board member orientation and sexual harassment prevention.

Public Comment: None.

7) Budget Report –

Mr. Paul McDermott, DCA Budget Analyst, stated the Governor's budget would be released tomorrow. Additionally, the Bureau's budget is stable and in solid shape for this fiscal year.

Ms. Thomson asked about the line items of evidence and witness fees and exam supplies. Mr. McDermott replied the witness fees are paid if a case goes to hearing and the exam supplies depend on what is needed for the year.

Public Comment: None.

8) Legislative Update and Discussion –

Mr. Alexander Millington, DCA Legislative Affairs Analyst, presented updates, requested at the last meeting, on the following bills.

1. SB 931 (Hertzberg) Conservatorships: Custody Status – this bill does include LPS conservatorships.
2. SB 1191 (Hueso) Crimes: Elder and Dependent Adult Abuse: Investigations – this bill requires policy documents to be updated.

Public Comment: A member of the public brought to the committees' attention an article about a conservator convicted in Nevada.

9) Bureau Updates – Ms. May presented the statistics as of December 31, 2018.

- Application Licensing and Enforcement Statistics –

2018 Statistics	As of December 31, 2018
New Licenses	36
Active Licenses	745
Total Licenses Issued	1,087
New Applications Received	58
AG Cases Initiated	2
Citations Issued	5
Complaints Received	53
Complaints Closed	33
Complaints Pending	40
Average Days to Close	76

- Clarification of new licensees and total licensees from November meeting – In response to a public comment from the prior meeting, the report was through a specific point/snapshot in time.
- Outreach – There is one upcoming event on March 5, 2019, in Redding. The event is sponsored by the Shasta County District Attorney's Office and the attendees will be seniors and veterans.
- E-Newsletter – The newsletter is in the DCA legal office for review and then will be sent to the publications office prior to being posted to the website and distributed to the interested parties list. Ms. May requested topic ideas or article submissions for future newsletters.
- Complaint Process – Ms. May presented an overview of the complaint process including how complaints are received, types of complaints received, timeframe,

referral procedures, and actions that may be taken if a violation of law is found. The Bureau is in the process of updating its website to make this process clearer to licensees and consumers.

- Clarification of the DCA mediation website – In response to a public comment from the prior meeting, Ms. May explained that the Department does not have a mediation program but does have a list of local mediation programs that may be of use to consumers and are typically run by the county.

Ms. Thomson asked what the difference is in the numbers between active and new licensees since this does not total all licenses. Ms. Cuadra explained the total includes every license issued since inception and the active does not include cancelled, delinquent, or revoked. Ms. Thomson also asked if a letter of reprimand is posted on the website and Ms. May replied that it is, and it is there permanently.

Public Comment: Comment that the numbers of licensees do not add up. Additionally, the commenter stated there were 408 complaints filed since 2015 and no actions have been taken. Also, stated the Bureau is saying it will not take action on crimes. A second commenter asked how the average days closed are calculated and provided to the Bureau a handout for reference on a complaint she has filed and not received closure. Ms. May stated the Bureau is not able to discuss specific complaints and their resolution during advisory committee meetings.

10) Proposed Rulemakings –

Ms. May reported no new updates to the pending regulations. These regulations are all under pre-review in the DCA legal office.

- 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
- Introduction and Discussion of Proposed Advertising Regulation – Section 4485 of Article 4 of Title 16 of the California Code of Regulations and Amendment to Section 4406 of Article 1 of the California Code of Regulations
- Introduction and Discussion of Proposed Amendments to Citation Sections 4600 and 4606 of Article 10 of Title 16 of the California Code of Regulations

Public Comment: A comment was made that public information should not be redacted and that a regulation package should be submitted for this item.

11) Future Agenda Items –

- Regulations to discipline licensees when their act is criminal
- Regulations to not redact public information
- Agendize regulations to protect consumers

Public Comment: Commenter stated there were items he commented on that should be agendized and these items have been added to the list above.

12) Future Meeting Dates

- Wednesday, May 29, 2019
- Wednesday, August 14, 2019
- Wednesday, November 13, 2019

Committee members did not mention any scheduling conflicts.

Public Comment: A request was made to hold meetings by teleconference.

Dr. Tracy Montez recommended the individuals who have expressed concerns to look at the statutes and present suggestions to the Bureau on items that may help with consumer protection. The Bureau does have to work within its mandates but is open to suggestions.

13) Public Comment on Items Not on the Agenda –

A commenter recommended the Bureau and committee view documentary called “The Guardians” which will be available for purchase on January 15, 2019.

14) Adjournment – The meeting was adjourned at 11:53 a.m.

BUDGET REPORT
Expenditure Projection
2018-19 - FM 10

Object Description	FY 2015-16	FY 2016-17	FY 2017-18	FY 2018-19				
	Actual EXPENDITURES Month 13	Actual EXPENDITURES Month 13	Actual EXPENDITURES Month 12	Budget Allotment	Current Year Expenditures 4/30/2019	Percent Spent	Projections to Year End	Unencumbered Balance
PERSONNEL SERVICES								
Salary & Wages (Staff)	124,868	110,184	117,407	117,000	105,572	90%	127,169	(10,169)
Statutory Exempt	85,452	6,818	93,600	77,000	77,298	100%	97,344	(20,344)
Temp Help (Seasonal)	25,711	37,258	28,759	22,000	0	0%	0	22,000
Committee Members	1,800	2,500	2,000	0	1,000	0%	1,200	(1,200)
Overtime	0	66	0	0	0	0%	0	0
Staff Benefits	113,815	67,955	97,703	121,000	84,766	70%	104,069	16,931
TOTALS, PERSONNEL SVCS	351,646	224,781	339,469	337,000	268,636	80%	329,782	7,218
OPERATING EXPENSE AND EQUIPMENT								
General Expense	1,658	2,305	153	5,000	350	7%	1,372	3,628
Fingerprint Reports	0	59	0	0	0	0%	0	0
Minor Equipment	1,335	0	0	0	0	0%	0	0
Printing	3,391	3,843	1,775	1,000	0	0%	3,003	(2,003)
Communication	336	359	431	1,000	1,028	103%	1,233	(233)
Postage	2,467	1,190	2,191	2,000	0	0%	1,949	51
Insurance		3	885	0	7	0%	0	0
Travel In State	7,362	2,972	2,683	4,000	0	0%	2,000	2,000
Training	350	10	0	1,000	235	24%	235	765
Facilities Operations	37,275	39,521	40,114	32,000	32,575	102%	39,100	(7,100)
C&P Services Interdept.	0	0	7,542	3,000	13	0%	3,000	0
C&P Services - External	394	2,302	0	0	719	0%	899	0
DEPARTMENTAL SERVICES								
Office of Information Services Pro Rata	21,215	19,276	35,000	39,000	32,500	83%	39,000	0
Administration Pro Rata	31,996	37,853	41,000	44,000	36,667	83%	44,000	0
Interagency Services with OPES		100,060	4,000	4,000	3,333	83%	4,000	0
DOI - Special Ops Unit Pro Rata	983	920	1,000	1,000	833	83%	1,000	0
Communication Prorata	27,000	14,446	209	2,000	1,696	85%	2,000	0
Public Policy Review Division Pro Rata	59,281	654	22,000	20,000	16,667	83%	20,000	0
INTERAGENCY SERVICES:								
Consolidated Data Center	1,403	0	1,090	0	0	0%	0	0
Information Technology	38,376	0	0	1,000	67	7%	67	933
EXAM EXPENSES:								
Exam Supplies	164	0	118	0	0	0%	0	0
ENFORCEMENT:								
Attorney General	31,300	25,918	25,934	66,000	16,680	25%	22,239	43,761
Office of Admin. Hearings	16,140	2,161	6,245	0	70	0%	100	(100)
TOTALS, OE&E	282,999	254,437	192,370	226,000	143,440	63%	185,197	41,701
TOTAL EXPENSES	634,645	479,218	531,839	563,000	412,075	73%	514,979	48,919
Scheduled/Unsch Reimbursements	(1,000)	(1,000)	(1,000)	(1,000)			(1,000)	
NET APPROPRIATION	633,645	478,218	530,839	562,000	412,075	73%	513,979	48,919
Surplus/(Deficit):								9%

3108 - Professional Fiduciary Fund

Analysis of Fund Condition

Prepared 5.15.2019

(Dollars in Thousands)

Governor's Budget	PY 2017-18	CY 2018-19	Governor's Budget BY 2019-20
BEGINNING BALANCE	\$ 220	\$ 212	\$ 231
Prior Year Adjustment	\$ -	\$ -	\$ -
Adjusted Beginning Balance	\$ 220	\$ 212	\$ 231
REVENUES AND TRANSFERS			
Revenues:			
4121200 Delinquent fees	\$ 2	\$ 3	\$ 3
4127400 Renewal fees	\$ 441	\$ 476	\$ 479
4129200 Other regulatory fees	\$ 7	\$ 5	\$ 5
4129400 Other regulatory licenses and permits	\$ 113	\$ 118	\$ 133
4163000 Income from surplus money investments	\$ 2	\$ 3	\$ 4
Totals, Revenues	\$ 565	\$ 605	\$ 624
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Totals, Resources	\$ 785	\$ 817	\$ 855
EXPENDITURES			
Disbursements:			
1111 Department of Consumer Affairs Program Expenditures (State Operations)	\$ 538	\$ 562	\$ 574
9892 Supplemental Pension Payments (State Operations)	\$ -	\$ 9	\$ 12
9900 Statewide General Administrative Expenditures (Pro Rata) (State Operations)	\$ 35	\$ 15	\$ 26
Total Disbursements	\$ 573	\$ 586	\$ 612
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FUND BALANCE			
Reserve for economic uncertainties	\$ 212	\$ 231	\$ 243
Months in Reserve	4.2	4.5	4.8

**Professional Fiduciaries Bureau
May 26, 2019 Legislative Update**

Important Legislative Dates – Spring-Fall 2019

- **May 31** – Last day for each house to pass bills introduced in their house of origin
- **June 3** – Committee meetings may resume.
- **June 15** – Budget Bill must be passed by midnight.
- **July 10** – Last day for second house policy committees to hear and report bills to fiscal committees.
- **July 12** – Last day for second house policy committees to meet and report bills. Summer recess begins upon adjournment.
- **August 12** – Legislature reconvenes from Summer Recess.
- **August 30** – Last day for fiscal committees to meet and report bills (Suspense Hearing).
- **September 3-13** – Floor session only.
- **September 6** – Last day to amend bills on the floor.
- **September 13** – Last day for any bill to be passed.
- **October 13** – Last day for Governor to sign or veto bills.

2019 Legislation Related to the Bureau

As of the writing of this handout, there were no bills pending related to the Bureau.

Other Issues

AB 473 (Maienschein, 2019) would increase the specified dollar amounts for a small estate to qualify for disposition without a full probate administration. The bill would also increase the dollar amounts for a surviving spouse to collect unpaid compensation from the decedent-spouse's employer. The bill would also require, on April 1, 2022, and at each 3-year interval ending on April 1 thereafter, the Judicial Council to adjust these dollar amounts based on a particular consumer price index published by the United States Bureau of Labor Statistics. The bill would further require the Judicial Council to publish the adjusted dollar amounts and the date of the next scheduled adjustment. *This bill is scheduled to be heard in the Senate Judiciary Committee on June 4th.*

AB 797 (Grayson, 2019) would require a business that is licensed under the Money Transmission Act whose primary business function is transmitting money, that operates out of a physical storefront or location and that does not engage in other transactions, to provide notice to customers who are 65 years of age or older making the customer aware that fraud has been committed in recent years by means of money transmittals. The bill would govern the manner for providing the notice and would require the customer who receives the notice to provide confirmation that the customer has read and understood the notice before proceeding with the transaction. *This bill failed its first house policy committee deadline and is now a two-year bill.*

AB 1378 (Irwin, 2019) would authorize a custodial parent or a person who has been awarded custody or guardianship of a minor child to designate a person to serve as a standby guardian of the person, the estate, or both, by completing a Standby Guardian's Authorization Affidavit. The bill would require the designation of a standby guardian to take effect, absent an objection of a noncustodial parent, under specified circumstances that include if the custodial parent or guardian has died or is detained by law enforcement, incarcerated, or deported. *This bill is pending hearing before the Assembly Judiciary Committee.*

AB 1396 (Obernolte, 2019) would authorize a court to order a restrained party to participate in mandatory clinical counseling or court-approved anger management courses when the court issues a protective order for abuse involving acts of physical abuse or acts of deprivation by a care custodian of goods or services that are necessary to avoid physical harm or mental suffering. *This bill is pending a vote on the Assembly floor.*

AB 1572 (Chen, 2019) would change the definition of "gravely disabled" in the Health and Safety Code to read in part as where a person, as a result of a mental health disorder, is incapable of making informed decisions about, or providing for, the person's own basic personal needs for food, clothing, shelter, or medical care without significant supervision and assistance from another person and, as a result of being incapable of making these informed decisions, the person is at risk of substantial bodily harm, dangerous worsening of a concomitant serious physical illness, significant psychiatric deterioration, or mismanagement of essential needs that could result in bodily harm. *This bill's hearing before the Assembly Health Committee was canceled at the request of the author.*

AB 1721 (Lackey, 2019) would have made unspecified revisions to the Penal Code section defining Elder Abuse. At the time of this update, the bill contained no substantive revisions to existing law. *This bill failed its first house policy committee deadline and is now a two-year bill.*

SB 303 (Wieckowski, 2019) would change existing Guardianship-Conservatorship law, which currently authorizes the guardian or conservator to establish the residence of the ward or conservatee at any place within this state without the permission of the court, and requires the guardian or conservator to select the least restrictive appropriate residence that is available. The law presumes that the personal residence of the conservatee is the least restrictive appropriate residence for the conservatee, and provides that, in any hearing to determine if removal of the conservatee from their personal residence is appropriate, the presumption may be overcome by a preponderance of the evidence. This bill would instead provide the presumption may be overcome by clear and convincing evidence. *This bill is pending policy committee assignment in the second house.*

SB 308 (Jones, 2019) would revise the definition of instrument under the Probate Code to mean a will, a document establishing or modifying a trust, a deed, or any other writing

that designates a beneficiary or makes a donative transfer of property. The current Probate Code definition of “instrument” is a will, trust, deed, or other writing that designates a beneficiary or makes a donative transfer of property. *This bill is pending hearing in the Assembly Judiciary Committee.*

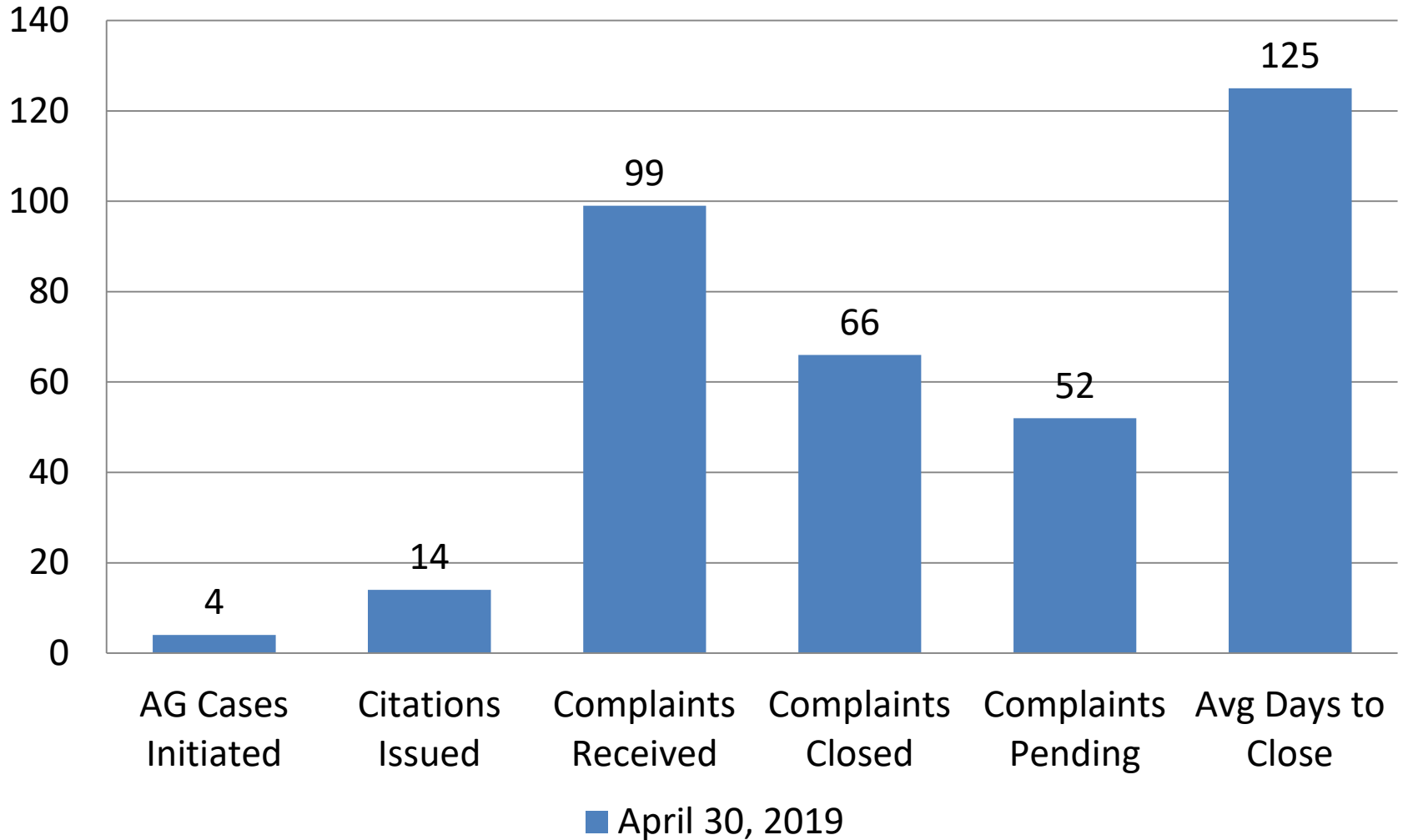
SB 314 (Dodd, 2019) This bill would extend remedies under the Elder Abuse and Dependent Adult Civil Protection Act to cases in which the defendant is liable for abandonment under the existing legal standards for physical abuse or neglect. The Elder Abuse and Dependent Adult Civil Protection Act provides for the award of attorney’s fees and costs to, and the recovery of damages by, a plaintiff when it is proven by clear and convincing evidence the defendant is liable for physical abuse or neglect, as defined, and the defendant has also been found guilty of recklessness, oppression, fraud, or malice in the commission of that abuse. *This bill is pending hearing in the Assembly Judiciary Committee.*

SB 338 (Hueso, 2019) would eliminate the duty imposed on long-term care ombudsman programs to revise or include in their policy manuals specified information regarding elder and dependent adult abuse. The bill would also authorize local law enforcement agencies to adopt a policy regarding senior and disability victimization, as defined. The bill would require, if a local law enforcement agency adopts or revises a policy regarding senior and disability victimization on or after October 1, 2020, that the policy include specified provisions, including those related to enforcement and training. *This bill is pending policy committee assignment in the Assembly.*

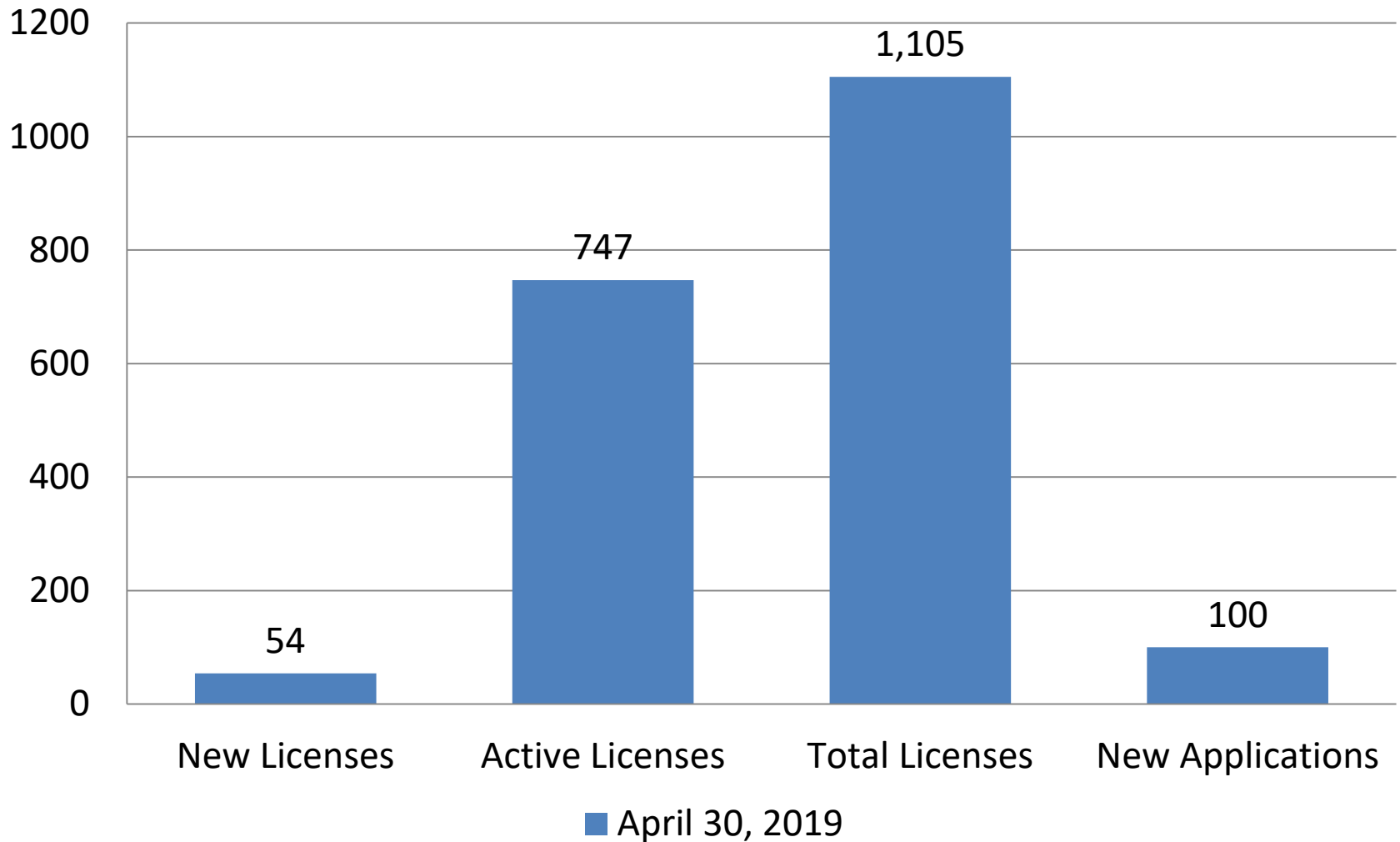
SB 492 (Galgiani, 2019) would, when the alleged victim of elder or dependent adult abuse has a personal representative who is the alleged abuser, require the adult protective services agency or long-term care ombudsman to proceed with an investigation as if the alleged victim has provided consent. The bill would require an investigation to be reported to the local law enforcement agency that has a primary investigative role. *This bill failed its first house policy committee deadline and is now a two-year bill.*

SB 496 (Moorlach, 2019) would expand the category of mandated reporters of suspected financial abuse to include broker-dealers and investment advisers. The bill would authorize a broker-dealer or investment adviser who makes a report to notify any trusted contact person who had previously been designated by the elder or dependent adult of any known or suspected financial abuse, and to temporarily delay a requested disbursement or transaction from an account of an elder or dependent adult or an account to which an elder or dependent adult is a beneficiary if specified conditions are met. *This bill is pending a floor vote in the Senate.*

Complaint Statistics Through April 30, 2019



Licensing Statistics Through April 30, 2019



OUTREACH EVENTS

Since the last Advisory meeting

- 4th Annual Senior & Veteran Fraud Prevention Fair, Shasta County District Attorney's Office, March 5, 2019 in Redding
- Professional Fiduciaries Association of California 24th Annual Educational Conference, May 1-3, 2019 in Anaheim
- 22nd Annual Senior Services & Fraud Prevention Fair, May 8, 2019 in Yreka
- 12th Annual Senior Health Fair, May 16, 2019 in Citrus Heights

Upcoming Events

- None Scheduled