

THE

PFB UPDATE



PROFESSIONAL FIDUCIARIES BUREAU

SPRING 2023

MESSAGE FROM THE BUREAU CHIEF

Hello, friends of the Professional Fiduciaries Bureau!

I hope this newsletter finds you in good health and spirits.

If you have been following along with the Bureau’s Advisory Committee meetings, you may know that the Bureau is undergoing the “sunset review” process. Like other professional licensing entities in California, the Professional Fiduciaries Bureau has a sunset date—currently January 1, 2024—written into its governing statutes. Establishing a sunset date affords the Legislature the opportunity to periodically audit the Bureau, ensure the Bureau is meeting its consumer-protection mandate, and if merited, extend the Bureau’s sunset date.

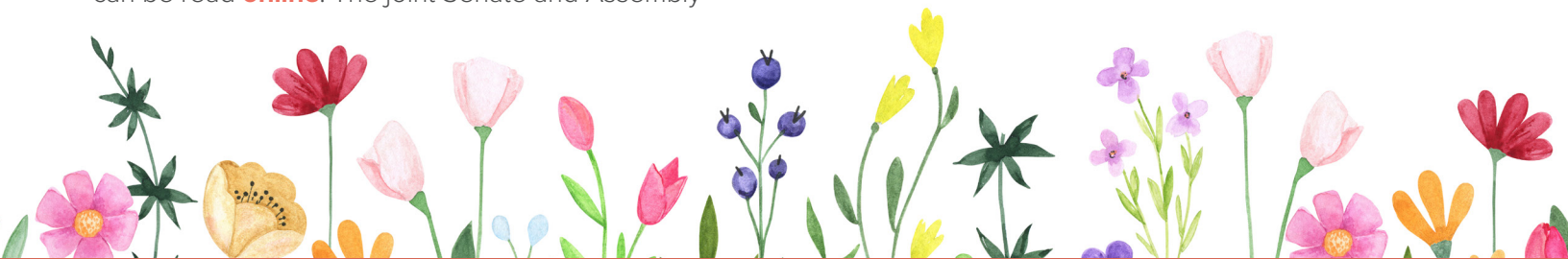
Though the process is laborious, sunset review is the best way for the Bureau to highlight the issues it faces and to work with the Legislature and Administration to make substantive improvements to the Professional Fiduciaries Act. Bureau staff prepared a detailed sunset report regarding the Bureau’s functions, which can be read [online](#). The joint Senate and Assembly

Committees on Business and Professions also held a public hearing regarding the Bureau on March 16, where I testified on behalf of the Bureau and answered questions from legislators.

The Assembly Business and Professions Committee introduced **Assembly Bill 1262**, which proposes to extend the Bureau’s sunset to January 1, 2028, and makes other needed updates to the Act. As this bill makes its way through the legislative process, I will provide status updates to our public and licensee stakeholders at upcoming Advisory Committee meetings.

The Bureau values your input. Feel free to reach out to us at fiduciary@dca.ca.gov if you have any suggestions regarding the Bureau’s sunset review, the Bureau’s functions, or even suggested items for future newsletters. I also encourage you to sign up for the Bureau’s email list to receive notification of important Bureau happenings.

Sincerely,
Rebecca May, Bureau Chief



DEPARTMENT OF CONSUMER AFFAIRS



PROFESSIONAL FIDUCIARIES BUREAU

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ASK ANGIE

Angela Cuadra is the Professional Fiduciaries Bureau’s resident expert when it comes to the Bureau’s functions. If you have a question regarding applications, licensing, licensing renewals, complaints, enforcement, or any other questions related to the bureau, please email fiduciary@dca.ca.gov with the phrase **ASK ANGIE** in the subject line. Questions will be answered directly and, if the question is popular, the answer will be published in our next e-newsletter. Please note that we cannot provide legal advice. Here are some commonly asked questions.

Q Can I require an individual to withdraw their complaint with the Bureau in a settlement agreement? The complaint is without merit.

A No. Pursuant to Business and Professions Code (BPC) Section 143.5 (a), “No licensee who is regulated by a board, bureau, or program within the Department of Consumer Affairs, nor an entity or person acting as an authorized agent of a licensee, shall include or permit to be included a provision in an agreement to settle a civil dispute, whether the agreement is made before or after the commencement of a civil action, that prohibits the other party in that dispute from contacting, filing a complaint with, or cooperating with the department, board, bureau, or program within the Department of Consumer Affairs that regulates the licensee or that requires the other party to withdraw a complaint from the department, board, bureau, or program within the Department of Consumer Affairs that regulates the licensee. A provision of that nature is void as against public policy, and any licensee who includes or permits to be included a provision of that nature in a settlement agreement is subject to disciplinary action by the board, bureau, or program.” Further, as part of its consumer-protection mandate, the Bureau is required to investigate all complaints it receives, pursuant to BPC 6580.

Q How do I know if I’m eligible for an inactive or retired license status?

A To be considered for an inactive or retired license status, you must: 1) have a license in good standing for five consecutive years immediately preceding your application; 2) have

no outstanding citations or other disciplinary actions against your license; 3) have no outstanding cost recovery orders; and, 4) have no open cases that require licensure. Licensees who hold a “delinquent” status will no longer qualify after January 1, 2024 for either inactive or retired license status. To better understand the requirements, please review CCR **4565** (inactive) and CCR **4573** (retired). Please remember, application fees are non-refundable.

Q How do I reinstate my license from inactive or retired to active? Can I prevent this from happening next time?

A The process for reinstating an inactive or retired license status is similar. Both require the completion of 15 hours of continuing education in the preceding year, the submission of an updated annual statement, and the payment of renewal fees. However, once five years have lapsed for retired-status licensees and 10 years for inactive-status licensees, both will have to reapply as though they were seeking initial licensure, including passing the licensing exam. To better understand the specific requirements, please review California Code of Regulations (CCR) **4568** (inactive) and **4575** (retired).

Q What should I know before hiring a professional fiduciary?

A You should first ensure the individual is actively licensed with the Bureau. You can check license status **online**. The Bureau also has a **handy checklist** on its website to help you further determine if the professional fiduciary will be a good fit to meet your needs.



LEGISLATIVE UPDATE

The following pending legislation in the California Legislature may be of interest to our licensees and consumers. Additional information regarding these bills, including full text and policy committee analyses, can be found at www.leginfo.legislature.ca.gov.

AB 1262 (Committee on Business and Professions) Professional fiduciaries.

Status: Pending Senate Rules Committee.

This bill would extend the Professional Fiduciaries Bureau's sunset date to January 1, 2028, and make other changes to the Professional Fiduciaries Act including: stagger the appointment terms of the Advisory Committee members, establish criteria for the reinstatement of a license, remove the requirement for the Bureau to make certain information publicly accessible, require licensees to notify the bureau and submit a final annual statement if they no longer plan to renew, make unlicensed practice a crime, specify that failure to respond to the Bureau is considered unprofessional conduct, prohibit aiding and abetting unlicensed practice, and make other non-substantive, technical updates.

SB 232 (Niello) Mental health services: gravely disabled.

Status: Pending Senate Health Committee.

This bill would expand the definition of "gravely disabled" in the Lanterman-Petris-Short Act to include conditions wherein an individual is incapable of making informed decisions about, or provide for, their own medical care or other personal needs and, as a result, that person is at risk of substantial bodily harm, dangerous worsening of a concomitant serious physical illness, or significant psychiatric deterioration. This bill would also specify that "gravely disabled" includes conditions in which a person is unable to provide informed consent to treatment due to anosognosia.

SB 280 (Laird) Review of conservatorships: care plans.

Status: Pending Assembly Judiciary Committee.

Beginning January 1, 2025, this bill would require a conservator, within 120 calendar days of appointment and not later than 10 days before a hearing, to determine either the continuation or termination of an existing conservatorship, and to file a care plan regarding the care, custody, and control of the conservatee. It would require the care plan to be delivered to specified persons, including the conservatee and their attorney, but would otherwise make the care plan confidential and limit public access to the records. The bill would require the Judicial Council to develop a mandatory form for the care plan and would impose sanctions for a conservator's failure to timely file a care plan.

SB 544 (Laird) Bagley-Keene Open Meeting Act: teleconferencing.

Status: Pending Assembly Rules Committee.

This bill would remove existing teleconference requirements within the Bagley-Keene Open Meeting Act (Bagley-Keene Act) and instead require a state body to provide a means for the public to remotely hear audio of the meeting, remotely observe the meeting, or attend the meeting by providing on the posted agenda a teleconference phone number, an internet website or other online platform, and a physical address for at least one site, including, if available, access equivalent to the access for a member of the state body participating remotely. This bill would require the specific means of access to the meeting to be included in the meeting notice. The bill would also revise the Bagley-Keene Act to no longer require members of the public to have the opportunity to address the state body directly at each teleconference location. Instead, this bill would continue to require the agenda to provide an opportunity for members of the public to address the state body directly. The bill would require a member or staff to be present at the physical location specified in the notice of the meeting and make other changes to the Bagley-Keene Act.

ANNUAL AND INITIAL STATEMENT TIPS

The Bureau's initial and annual statements are a central component to the licensing and renewal process. An initial annual statement is due **within 60 days after** a license is issued. Annual statements are due **60 days prior** to the expiration of a license. A license will not be renewed unless a complete annual statement is received. To help ensure your license is renewed on time and to minimize back and forth with Bureau staff, please consider the following "best practices" when completing and submitting your initial and annual statements:

- **Make sure you use the correct form.** You can find the **Initial Annual Statement** and the **Annual Statement** on the Bureau's website. Submissions provided on an incorrect or outdated form are not accepted.
- **Email or fax your Initial and/or Annual Statement to the Bureau.** While the Bureau always accepts mailed Initial and Annual Statements, emailed and faxed statements cut down processing times and save paper and postage costs. The most efficient method of submitting your annual statement is by email. You can email your statement to pfbrenewals@dca.ca.gov, or fax it to (916) 574-8645. Emailed statements will receive confirmation of receipt. The Bureau is not able to send confirmations of receipt for statements that are faxed.
- **Report ALL newly open and closed cases.** Pursuant to Business and Professions Code 6561, all cases are to be reported whether court supervised or non-court supervised.
- **Report full case or client names.** The full case or client name is required for all opened and closed cases. The Bureau does not accept partial names or initials for any cases/clients.
- **Keep case names and types consistent.** For example, if you report "Mary Smith Conservatorship" as an open case, it should be subsequently closed with the same name and type. Reporting "M. Smith POA" as a closed case is confusing and will require the Bureau to follow up with you.
- **Always include open and closure dates.** Please report the month, day, and year the case was opened or closed.
- **Don't send duplicate initial or annual statements.** Already emailed your statement? Great! No need to follow up with a mailed or faxed version.
- **Consider including your email address.** It's optional to provide your email address, but it makes it easier to reach you if the Bureau has questions about your submission. Your email will not be shared.

ARE YOU COMPLYING WITH NEW FEE SCHEDULE REQUIREMENTS?

Do you have a website advertising your services as a professional fiduciary? Did you know you are required to include a fee schedule on your website?

Effective January 1, 2023, **Assembly Bill 1194** (Low, Chapter 417, Statutes of 2021) requires professional fiduciaries who have an internet website to provide a fee schedule, including hourly fees, on their website. Those without a website must provide a fee schedule

for services, upon request, or to interested consumers. Failure to comply may result in disciplinary action against your professional fiduciary license.

To stay up to date on new laws that govern your professional fiduciary license, you are encouraged to sign up for the Bureau's interested parties list at www.fiduciary.ca.gov.

CALLING ALL EXPERTS!

The Professional Fiduciaries Bureau’s expert consultant program provides impartial support to the investigation and enforcement functions of the Bureau.

Expert consultants provide expert reviews and opinions on complex complaints received by the Bureau.

To be an expert consultant for the Bureau, you must meet the following minimum criteria:

1. Possess a current California professional fiduciary license in good standing for the previous five years.
2. Have no prior or pending administrative or disciplinary actions.

3. Have an active fiduciary practice with a current case load with at least three clients during your career as a licensed professional fiduciary.
4. Possess in-depth knowledge of fiduciary work (trusts, conservatorships, durable power of attorney, and/or guardianships) and the professional fiduciary industry’s best practices.

The Bureau has set the reimbursement rate for fiduciaries conducting case reviews and report writing at \$75 per hour and \$90 per hour for providing expert testimony at an Administrative Hearing.

If you would like to apply, or have questions, please email fiduciary@dca.ca.gov.

ANNUAL STATEMENT

Every year like clockwork, licensees are required to submit their **Annual Statement at least 60 days prior** to the expiration date of their license. This important requirement is a condition of licensure pursuant to **Business and Professions Code section 6562**.

Licenses will not be renewed unless an updated and complete Annual Statement is on file. Further, licensees who do not send in their Annual Statement on time risk practicing with an expired license and may be subject to administrative or enforcement actions.

Please be sure to use the most current version of the annual statement form.





VISION AND MISSION STATEMENTS

OUR VISION

The well-being of consumers receiving professional fiduciary services is safeguarded.

OUR MISSION

To protect consumers through licensing, consumer education, and enforcement of the Professional Fiduciaries Act and promote and uphold competency and ethical standards across the profession.

ENFORCEMENT ACTIONS: 2023

LICENSEE/APPLICANTS	LICENSE NUMBER	ACTION TAKEN	EFFECTIVE DATE
Deirdre Nesbit-Combs	309	Citation	1/9/2023
Paula Rebecca Bibbs	267	Citation	1/13/2023
Rick Ronald Emmett	936	Citation Status: Citation Satisfied	1/18/2023
Kathryn Anne Glenn	453	Citation	1/23/2023
Winnie Weshler	202	Citation	1/26/2023
Debra Rose	796	Accusation	2/1/2023
Livia Argano	231	Citation Status: Citation Satisfied	2/15/2023
Gail Greer	143	Revocation	3/6/2023
Jeffrey Moore	980	Accusation	3/13/2023
Debra Rose	796	Revocation	4/14/2023

BUREAU ACTIONS EXPLANATION OF LANGUAGE

Accusation

A formal, written statement of charges filed against a licensee.

Citation and Fine

Licensee is issued a citation and required to pay a fine commensurate with the violation committed.

Default Decision

Licensee fails to respond to an accusation by filing a notice of defense or fails to appear at an administrative hearing.

Effective Decision Date

The date the disciplinary decision/order goes into operation.

Letter of Public Reprimand

A formal reprimand issued by the Bureau, which could be in lieu of filing a formal accusation.

Revoked

The license is voided and the right to practice has ended.

Revoked, Stayed, Probation

“Stayed” means the revocation is postponed, put off. Professional practice may continue as long as the licensee complies with specified probationary terms and conditions. Violation of probation may result in the revocation that was postponed by the stay.

Statement of Issues

Charges filed against an applicant to deny licensure due to alleged violations of the Professional Fiduciaries Act.

Stipulated Settlement

The case is negotiated and settled prior to hearing.

Surrender of License

While charges are still pending, the licensee agrees to turn in the license—subject to acceptance by PFB.

Writ

An appeal filed by the licensee in Superior Court asking the court to overturn PFB’s decision.



IMPORTANT BUREAU UPDATES AND HOW TO RECEIVE THEM

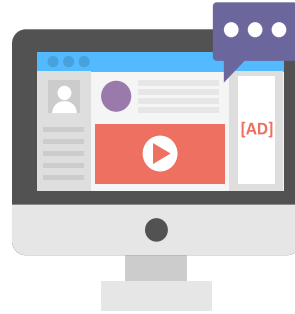
The Bureau is now on Facebook and Twitter! Follow the Bureau by clicking on the following icons or going to the specified link:



[www.facebook.com/
CaliforniaProfessionalFiduciariesBureau](https://www.facebook.com/CaliforniaProfessionalFiduciariesBureau)



<https://twitter.com/FiduciaryBureau>



Additionally, if you would like to receive notifications from the Bureau about upcoming events, new regulations, and Advisory Committee meetings, please sign up to receive email notifications by clicking [HERE](#).

SEND US YOUR FEEDBACK

We hope you find *The PFB Update* useful. The Bureau welcomes your comments and suggestions for future issues. You can contact us by phone at (916) 574-7340 or by email at fiduciary@dca.ca.gov. Click [here](#) to find previous online copies of *The PFB Update*.

Please share this newsletter with your colleagues and let them know they can sign up to receive a copy by joining the Bureau's interested party list. Click [here](#) to subscribe.

2023 OFFICE CLOSURE DATES

INDEPENDENCE DAY	TUESDAY, JULY 4
LABOR DAY	MONDAY, SEPTEMBER 4
VETERANS DAY	FRIDAY, NOVEMBER 10
THANKSGIVING HOLIDAY	THURSDAY AND FRIDAY, NOVEMBER 23 AND 24
CHRISTMAS	MONDAY, DECEMBER 25

UPCOMING ADVISORY COMMITTEE MEETINGS

JUNE 21, 2023
SEPTEMBER 20, 2023
DECEMBER 13, 2023

ADVISORY COMMITTEE MEMBERS

Bertha Sanchez Hayden, chair, nonprofit organization advocating on behalf of the elderly
Chi K. Elder, public member
Elizabeth R. Ichikawa, probate court investigator
James Moore, licensee
Linda Ng, public member
Vacant, licensee
Vacant, licensee

BUREAU STAFF

Rebecca May, bureau chief
Angela Cuadra, program analyst
Sue Lo, enforcement analyst

DEPARTMENT OF CONSUMER AFFAIRS



PROFESSIONAL FIDUCIARIES BUREAU

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