

Professional Fiduciaries Bureau Advisory Committee Meeting

**Wednesday, January 23, 2013
11:00 a.m. – 4:00 p.m.**

**Meeting Location:
Department of Consumer Affairs HQ
1625 N. Market Blvd., 2nd Floor,
Eldorado Room
Sacramento, CA 95834**

Webcast

Committee Members:

Marguerite Lorenz – Chair
Barbara de Vries - Vice-Chair
Donna Estacio
Aileen Federizo

AGENDA

1. Call to Order – Chair
2. Roll Call - Gil DeLuna, Acting Chief
3. Introductions
4. Approval of Minutes from the August 28, 2012 Meeting
5. Update from the Director's Office – DCA Executive Office
6. Legislative Update – DCA Legislative and Policy Review Office
7. Bureau Update – Gil DeLuna, Acting Chief
 - Status of the Bureau
 - FY To Date Statistics
 - Enforcement
 - Complaint Process

- Citation Process
- E-Newsletter
- Senior Portal
- Reporting Unlicensed Activity
- Regulations
- Budget Report – DCA Budget Office

8. Discussion on Good Practice for Fiduciaries - Chair
9. Discussion on Licensing Requirements – Chair
10. Strategic Plan Update / Discussion – Acting Chief
11. Future Meeting Dates and Agenda items
12. Public Comment on Items Not on the Agenda (See “**Note**” below)
13. Adjournment

Note: The Professional Fiduciaries Bureau Advisory 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.

Notice: The meeting is accessible to the physically disabled. A person who needs disability-related accommodations or modifications in order to participate in the meeting shall make a request no later than five working days before the meeting to the Bureau by contacting Gil DeLuna at (916) 574-7754, gil.deluna@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 Mr. DeLuna at the same address and telephone number.



MEMORANDUM

DATE	January 23, 2013
TO	Advisory Committee Members Professional Fiduciaries Bureau
FROM	Gil DeLuna, Acting Bureau Chief
SUBJECT	Agenda Item #1 - Call to Order- Chair Agenda Item #2 – Roll Call – Gil DeLuna

Marguerite Lorenz – Chair

Barbara de Vries – Vice Chair

Donna Estacio

Aileen Federizo



MEMORANDUM

DATE	January 23, 2013
TO	Advisory Committee Members Professional Fiduciaries Bureau
FROM	Gil DeLuna, Acting Bureau Chief
SUBJECT	Agenda Item #3 - Introductions

PFB Staff Present:

Gil DeLuna, Acting Bureau Chief

Angela Bigelow, Program Analyst

Dave Thornton, Investigator

Angelique Scott, DCA Attorney



MEMORANDUM

DATE	January 23, 2013
TO	Advisory Committee Members Professional Fiduciaries Bureau
FROM	Gil DeLuna, Acting Bureau Chief
SUBJECT	Agenda Item #4 - Approval of Meeting Minutes from August 28, 2012

Attachment #1 (Draft meeting minutes)

Action: Approve or Disapprove

Public Comment:

Attachment # 1

**Professional Fiduciaries Bureau
Advisory Committee Meeting
August 28, 2012**

**Department of Consumer Affairs
1625 N. Market Blvd., 1st Floor, Hearing Room
Sacramento, CA 95834**

Committee Members Present

Donna Estacio, Public Member
Aileen Federizo, CLPF
Barbara de Vries, CLPF
Marguerite Lorenz, CLPF

Staff Present

Gil DeLuna, Acting Bureau Chief
Angela Bigelow, Program Analyst
Gary Duke, DCA Legal Counsel
Angelique Scott, DCA Legal Counsel

DCA Staff Present

Reichel Everhart, Executive
Shayne VanOutryve, BreEZe
Tommy Nhan, Budgets
Awet Kidane, Executive
Brandon Rutschmann, BreEZe

I. Call to Order – Acting Bureau Chief

The meeting was called to order by Mr. DeLuna, at 10:04am.

II. Roll Call – Acting Bureau Chief

There were four members present and a quorum established at time of Roll Call.

III. Introductions

Mr. DeLuna introduced the new committee members and the new DCA Attorney, Angelique Scott. Mr. DeLuna thanked Mr. Duke for his work with the Bureau since inception. Mr. Duke distributed and explained the Bagley-Keene open meeting act. Those in attendance introduced themselves.

IV. Information from the Director's Office

Ms. Everhart welcomed the new committee members. Ms. Everhart explained the function of the Department of Consumer Affairs (DCA). Ms. Everhart also invited all members to attend the upcoming Board member orientation training in November.

Mr. DeLuna explained the function of an Advisory Committee and how the functions differ from a Board.

V. Swearing-in Ceremony – New Advisory Committee Members

New committee members Marguerite Lorenz, Barbara de Vries, and Aileen Federizo were sworn in by Mr. Kidane, Chief Deputy Director.

VI. Election of New Chair and Vice-Chair

Ms. Federizo nominated Ms. Lorenz for Chair, Ms. de Vries nominated herself for Chair, a vote was taken and Ms. Lorenz was voted as Chair for the committee by majority.

Ms. Lorenz nominated Ms. de Vries for Vice-Chair. Second by Ms. Federizo. A vote was taken and Ms. de Vries was voted as Vice-Chair for the committee by majority.

Mr. Duke stated that Acting Bureau Chief, Mr. DeLuna will facilitate the rest of this meeting.

VII. Approval of Minutes from the October 13, 2011

There was a discussion about only one past member was present at this meeting. Mr. Duke stated usually members should not vote on approval of minutes unless they attended the meeting, however, in this case it is a matter of necessity so the minutes can be approved and posted. Ms. Lorenz motioned the minutes be approved as written; second by Ms. Estacio. Motion carried.

VIII. Bureau Updates – Gil DeLuna, Acting Chief

- Status of the Bureau – Mr. DeLuna is still Acting Bureau Chief, one analyst and one retired annuitant. The Bureau has not been approved new positions at this time.
- FY 2011/2012 Statistics – Ms. Bigelow gave statistics for the last Fiscal Year. There were 105 applications received, 94 licenses issued, for a total of 630 licenses issued. There were 437 licenses renewed. There were 104 complaints received, 94 were closed, average days to close a complaint 127 days. The department target is to close complaints within 365 days.
- BOE/FTB – AB 1424 – Mr. DeLuna read and explained this bill. Mr. DeLuna stated that none of our licensees is on this list at this time.

Ms. Lamborn asked if a fiduciary takes over an estate and does not pay the taxes does that count as unpaid taxes. Mr. Duke stated this is only for personal taxes of the licensee.

Dr. Fettgather asked about the complaint statistics on how the complaint was closed. Mr. DeLuna stated a breakdown is not available at this time, however, this information will be available on the annual report when it is made available to the public.

Dr. Fettgather had questions specific to his complaint. Mr. DeLuna stated this is not the forum to comment on specific complaints, but he will be happy to speak to him at a later date.

Dr. Fettgather would like to have the procedure for handling complaints. Mr. DeLuna described the process of handling a complaint.

Dr. Fettgather asked for a written explanation for the closure of his complaint. Mr. DeLuna stated the Bureau calls both parties with the resolution of the complaint. Mr. Duke stated that complaints should be closed with a letter and that will need to be addressed.

Another comment was made but the public member did not come to the microphone so the comment was not audible.

- Citation Process – Mr. DeLuna presented a power point presentation to explain the process. Mr. Duke added that you do not lose your right to a formal hearing if you ask for an informal conference. Mr. Duke explained the issuance of a citation is not a disciplinary action and you are not admitting guilt if you pay a citation.

10:50 – 11:00 Break

IX. Budget Report – Tommy Nhan, DCA Budget Office

Mr. Nhan presented a PowerPoint presentation. Mr. Nhan explained the actual budget for FY 2011/2012 including expenditures and revenue. Mr. Nhan also explained the budget for the current FY 2012/2013 the budget and expected revenue. Mr. Duke asked for an explanation of actual budgeted monies as opposed to the reserve fund. Mr. Nhan presented a snapshot of the next few years of estimated revenue.

X. BreEZe Project – Shayne Van Outryve, DCA Project Management Office

Mr. DeLuna gave an introduction/background and introduced Brandon Rutschmann who will be presenting instead of Ms. Van Outryve. Mr. Rutschmann presented a PowerPoint presentation. Mr. Rutschmann gave a background of the BreEZe project for the committee and audience. Mr. Duke asked

for explanation of the acronyms and what a legacy system is for the benefit of the committee members as well as the audience. Mr. Rutschmann gave an explanation that the legacy systems are the systems used by DCA at this time (some are 30 years old) that BreEZe will replace.

Ms. Lorenz asked if a consumer will be able to check one person to see if that person has more than one license with DCA and Mr. Rutschmann replied yes. The system will also house photographs of licensees. Boards and Bureaus will make the decision as to what will be available once the system is in place.

Mr. Rutschmann explained the system will have alerts for staff when documents come in from applicants or consumers or when a due date has passed and these alerts will show up in an in-box for the employee.

The committee members would like to have input on how the license information will appear to consumers on the website. Mr. Rutschmann explained this is a Commercial off-the-shelf(COTS) program and there are some limitations. We can customize if necessary due to statutory requirements. There will be standards throughout DCA.

Application and renewal submissions will be able to be completed on-line. Credit card payments will be accepted for all transactions over the internet. Complainants can submit and track a complaint status on-line if the complainant is a registered user in the system. If the complainant wishes to remain anonymous, the complainant will not be able to track the status of the complaint. Real time updates instead of overnight batch updates as it is being done now.

Mr. Rutschmann explained the cost of this project and how the cost is distributed throughout DCA. PFB total cost over an 8 year period will be \$13,500. Once the project is completely paid for to the vendor, on-going cost for PFB will be approximately \$500/year.

Mr. Rutschmann explained we are at the beginning phase of the design phase. Ms. Bigelow has worked with the BreEZe team on preliminary configuration issues to make sure there are no hidden bombshells prior to the design phase beginning.

Mr. Rutschmann explained the Change Control Board for any changes needed on legacy systems prior to changing over to the BreEZe system. Also, how the Board or Bureau works with the team to set up the system for configuration, data verification, acceptance testing, and training.

Ms. Lorenz asked if there is an interface with law enforcement and BreEZe. Mr. Rutschmann explained there is an interface with Department of Justice(DOJ) for processing fingerprints with applicants. There is a possibility of interfacing at a later date with the Attorney General Office.

11:40 – 12:33 Lunch

XI. Discussion on Professional Fiduciary Charges to Clients

Mr. DeLuna gave a background regarding a series of San Jose Mercury News Articles in July, 2012. Mr. DeLuna is asking for recommendations from the committee in regards to what is considered in the best interest of the consumer.

Ms. de Vries stated in regards to the San Jose Mercury News Articles, her view is that this was unique to the county of Santa Clara. She feels other counties look carefully at fees billed. Ms. Lorenz stated a fiduciary comes in the beginning as a clean-up crew and will have higher charges at the beginning of a case. Ms. Federizo also believes this is not common practice but needs to be discussed. Ms. Federizo feels training and education is needed for fiduciaries on what is appropriate. Ms. Lorenz stated this training is not done by California State University Fullerton.

Ms. Estacio feels the profession may be on defense now because of the articles and pending legislation, and asked how this should be handled now so as to protect the public view of the profession. Ms. de Vries and Ms. Lorenz stated they present their fee schedule to perspective clients. There is not a cap of fees that can be charged by a fiduciary, however, the laws of court will sometimes determine a reasonable fee. All members of the panel feel that there needs to be more communication between the

fiduciary and client as to what fees are charged and for what services. Mr. DeLuna stated that when the Bureau contacts a fiduciary in regards to a complaint that we need to have better communication that is in the best interest of the consumer on charges by the fiduciary.

Mr. DeLuna asked what needs to be done and what are the possible solutions.

Ms. de Vries stated there should be training for the courts in how to evaluate the bills and what is appropriate. This will be more oversight on the fiduciaries.

Ms. Lorenz feels a trust document should have the specifics of what will be charged as far as conservatorships the fees should be discussed up front. Ms. Lorenz feels all fiduciaries should have a written fee schedule but that the fees should not be capped.

Mr. Duke stated a problem the Bureau is having is determining what is reasonable in regards to fees. Right now complaints are being reviewed on a case by case basis. The committee feels that there are already ample laws in effect for approval of fees.

Ms. Lorenz and Ms. de Vries feel the training at CSUF is not sufficient for new fiduciaries that do not have experience and that this should be addressed at our next meeting.

Ms. Shvil spoke about that Judge King had asked Professional Fiduciary Association of California (PFAC) for their opinion on the articles. Some of the issues brought up are not happening in other counties. PFAC as an organization is discussing these issues at this time. On Conservatorship cases fiduciaries are not being paid for 18 months or more, then go into court and their fees are reduced even though the work has already been done. So bringing in the process earlier is something to be considered. PFAC is all about education and there has been discussion on all the new members that may not be trained enough. PFAC's goal is to reach out and educate more. PFAC would also like for the judges to be educated throughout the state. Also, Mr. Desmond has been reaching out legislatively in regards to the issue of capping fees and voiced the concerns PFAC has with this issue.

Ms. Lorenz stated PFAC now offers CLE credits.

Mr. Matulich feels one of the problems with these types of news articles, they cause changes that are not necessarily needed because of one or a couple of issues. Also, fees on fees issues are being heard about a lot now. It is not possible to defend these cases where the fees would not be more than the original fees that were charged because you need experts to defend the fees. It would be like asking the conservators to work for free. Current law is appropriate at this time as it is left up to the judges on a case by case basis to permit a reasonable fee. He stated there is a section in the accounting for unusual expenses which is the perfect place to put the \$3,000 birthday parties with an explanation of the fees.

Ms. Lorenz stated that there are court closures and consolidation going on at this time which will slow down the process and doubling the number of cases each judge is looking at.

Mr. Desmond Jr. stated that a benefit to the articles is the start of a conversation within PFAC and with the Judges about what is happening statewide and best practices.

Ms. Scott asked the committee members to remember there are procedures that need to be followed in regards to meetings of the members outside of the public meeting. The items need to be discussed in a public forum.

Mr. Duke stated the Bureau is really having a hard time with what is reasonable in fees when it comes to fiduciaries charging for speaking with the Bureau about a complaint. Ms. Lorenz asked for clarification on the complaint process and who actually has a standing to make a complaint. Mr. Duke stated we are asking for expertise on how the Bureau should handle the complaints. Mr. Matulich stated in non-court supervised cases, there are methods to object to fees through the court. Ms. Lorenz stated the Bureau should come up with a standardized list of questions to ask once a complaint is taken.

XII. Strategic Plan Update/Discussion

Mr. DeLuna explained that the Action Plan was created but has not been put to a final vote yet. Mr. DeLuna asked the committee if a new plan should be created to reflect the current needs. Ms. Lorenz moved that the Bureau should work on a new action plan due to the BreEZe. Ms. Estacio asked about

Mr. DeLuna explained that the Action Plan was created but has not been put to a final vote yet. Mr. DeLuna asked the committee if a new plan should be created to reflect the current needs. Ms. Lorenz moved that the Bureau should work on a new action plan due to the BreEZe. Ms. Estacio asked about the action plan that was worked on the last meeting. Ms. Bigelow explained that 3 of the members are no longer on the committee and many of the action items were not completed. It was decided a copy of the action plan would be forwarded to the new members to review and Mr. Duke stated this was not a violation of the open meeting act as long as there was not a meeting on it outside of the public format. Ms. Lorenz asked that this be added to the agenda for the next meeting. Ms. de Vries, second. The motion carried.

1:56 – 2:02 Break

XIII. Future Meeting Dates and Agenda items

Committee Members agreed on the following future meeting dates: November 8 at 8am-1pm, March 19, and July 11.

XIV. Public Comment on Items Not on the Agenda

Mr. DeLuna stated the following items will be added to the agenda for our next meeting:

- Competitors in terms of fees – Ms. Lorenz
- Complaint Process and development/refinement – Ms. Lorenz
- Concern with level of education for new licensees – Requirements and education – Ms. de Vries
- Approval of education providers – Ms. Lorenz
- Possible trainee license – Ms. de Vries
- Professional Fiduciary fees and fees on fees – Ms. Lorenz

XV. Adjournment

The meeting was adjourned by Mr. DeLuna at 2:17pm.



MEMORANDUM

DATE	January 23, 2013
TO	Advisory Committee Members Professional Fiduciaries Bureau
FROM	Gil DeLuna, Acting Bureau Chief
SUBJECT	Agenda Item #5 - Update from the DCA Director's Office

Presentation by the DCA Executive Office

Public Comment:



MEMORANDUM

DATE	January 23, 2013
TO	Advisory Committee Members Professional Fiduciaries Bureau
FROM	Gil DeLuna, Acting Bureau Chief
SUBJECT	Agenda Item #6 – Legislative Update – DCA

Presentation by the DCA, Division of Legislative and Policy Review

Attachment # 2 (DCA memo dated December 13, 2012)

Attachment #3 (Information regarding Marijuana Convictions)

Public Comment:

Attachment # 2



MEMORANDUM

DATE:	December 13, 2012
TO:	Executive Officers/Bureau Chiefs/Division Chiefs Department of Consumer Affairs
FROM:	Denise Brown, Director <i>Denise Brown</i> Department of Consumer Affairs
SUBJECT:	2012 Legislation Impacting All Department of Consumer Affairs Licensing Programs

In order to assist with compliance, the Department of Consumer Affairs (Department) is notifying each of its programs about legislation passed last session that will have broad impact across all programs. This memo outlines those new laws and what is expected of each program. We understand you may have some questions or concerns regarding these new laws or their implementation. As such, please contact Tracy Rhine by phone at (916) 574-7800 or by email at tracy.rhine@dca.ca.gov.

SB 1099 (Wright, Chapter 295) – Changes to Regulatory Timelines

This legislation modified the effective date of regulations. Currently, regulations become effective, as a general rule, 30 days after the Office of Administrative Law (OAL) files the Order of Adoption with the Secretary of State (SOS). Beginning January 1, 2013, SB 1099 provides that a regulation, or an order of repeal, becomes effective on one of four dates: January 1, April 1, July 1, or October 1 of each year. As to which of the four effective dates a regulation will become effective depends on when OAL files the regulation with SOS. The following timeframes outline when a regulation would become effective:

- To take effect January 1, a regulatory change must be filed with SOS between September 1 and November 30.
- To take effect April 1, a regulatory change must be filed with SOS between December 1 and February 29.
- To take effect July 1, a regulatory change must be filed with SOS between March 1 and May 31.
- To take effect October 1, a regulatory change must be filed with SOS between June 1 and August 31.

For example, a program completes its regular rulemaking by the one-year deadline and submits the rulemaking to OAL for review. OAL still is required to approve or disapprove the rulemaking within 30 **working** days after the rulemaking has been submitted to OAL for review. OAL approves the rulemaking, and files the Order of Adoption with SOS on July 10, 2013. Notwithstanding any exceptions, as noted below, the rulemaking will become effective on October 1, 2013.

It is important to note that the date a regulation is submitted to OAL for OAL's review does not determine a regulation's effective date. The date the regulation is filed with SOS determines the regulation's effective date.

Exceptions to this new general rule are as follows:

- The effective date is specifically provided by statute; therefore the regulation becomes effective by the date provided in statute.
- A later date is requested by the program.
- An earlier effective date is requested in writing by the program, demonstrating good cause for the earlier effective date.

Each program is also required to do the following:

- Post a regulation on its website within 15 days of the date a regulation is filed with the Secretary of State. The regulation must stay on the website for a minimum of six months from the filing date.
- Send the website link to the OAL within five days of posting the regulation on the program website. OAL is requesting all state agencies send a copy of the link to the following email address: postedregslink@oal.ca.gov.

The use of the term regulation as used above means the Order of Adoption, which technically, is the regulation.

Section 100 regulatory files are not subject to the new quarterly effective dates. However, entities are required; effective January 1, 2013, to post the Section 100 regulations on their websites and send the link to OAL, as is the case with all other OAL approved regulations.

OAL currently is in the process of drafting regulations to implement SB 1099 to clarify the bill's requirements.

OAL sent a memo to Chief Counsels and Regulation Coordinators providing information about the new changes and how these changes will affect agency procedures. OAL also revised its Standard Form 400 in compliance with the new statute. These two documents can found at this website: http://www.oal.ca.gov/Amendments_to_the_APA_2012.htm

AB 1588 (Atkins, Chapter 742) – Waiver of Renewal Requirements for Licensees on Active Duty

Beginning January 1, 2013, every program must waive the renewal requirements for a licensee if the licensee is serving on active duty in the Armed Forces or California National Guard. This new law gives each program broad regulatory authority to implement its provisions.

Renewal requirements waived under this bill include:

- Renewal fees;
- Continuing education; AND,
- Any other requirements as determined by the program.

Certain requirements for a waiver must be met:

- The licensee must possess a current and valid license with the program when called to active duty.
- The licensee must provide written documentation that substantiates the licensee's call to active duty.
- The licensee's renewal requirements are only waived for the period of time the licensee is serving on active duty.

As part of the waiver process, the licensee must also stipulate whether services will continue to be provided as part of their military service. All private practice is prohibited under the waiver. If a licensee will be providing services in the military, the license status must be converted to "military active."

For programs that choose to utilize a "military inactive" status, which should be applied to all licensees who are not specifically called to active duty to provide services under a license, it will be necessary to adopt regulatory changes specifying the new military inactive status.

Upon returning from active duty, a licensee must notify the program of the licensee's discharge within 60 days of the discharge date. The licensee is given six months to comply with all renewal requirements prior to providing any services under the license.

All programs will need to create a waiver process for qualified licensees to complete as well as a process for licensees who are discharged and returning from active duty. Each program can require additional information as necessary, but that information must be set out in regulations.

The Medical Board of California currently waives renewal fees for its licensees called to active duty. Its form can be found here: <http://www.mbc.ca.gov/forms/07a-106.pdf>

AB 1904 (Block, Chapter 399) – Expediting the Licensure Process for Spouses' of Active Duty Members

Beginning January 1, 2013, each program is required to expedite the licensure process for spouses and domestic partners of those on active duty. This does not mean that a license must be issued, but simply requires the process to be accelerated for these individuals. The applicant must provide evidence that he or she is also currently licensed in another state in the same profession.

Regulations should not be necessary for most programs; however, regulations will be necessary for those programs with initial application forms set specifically in regulation. Those programs not pursuing regulations must also keep in mind that it can only require applicants provide the necessary information in the initial application package that is required by statute. Programs cannot require an applicant complete a separate form without regulatory changes requiring it. If you have any questions, please contact your legal counsel for assistance.

AB 2570 (Hill, Chapter 561) – Prohibition on the Use of Gag Clauses

Beginning January 1, 2013, programs will now be required to enforce the prohibition on confidentiality agreements (also called “gag clauses”) in settlements involving licensees.

Programs are also prevented from requiring a licensee to pay additional sums of money to a consumer if the consumer and licensee have agreed to a settlement that provides for the full satisfaction of the consumer.

There is an important exception in the new prohibition that would authorize a program, upon a petition filed by a licensee or agent of a licensee, to adopt a regulation that would allow for certain “gag” clauses. Adopting a regulation or not is left to the discretion of the program. However, there is a process that must be followed upon receipt of a petition. The Department’s Legal Affairs Division has advised that any program that receives such a petition contact its legal counsel immediately for assistance with a response to the petition.

Attachment # 3

Information Regarding Marijuana Convictions as a Basis for Board/Bureau Action.

Penal Code §1000.4

1000.4. (a) Any record filed with the Department of Justice shall indicate the disposition in those cases deferred pursuant to this chapter. Upon successful completion of a deferred entry of judgment program, the arrest upon which the judgment was deferred shall be deemed to have never occurred. The defendant may indicate in response to any question concerning his or her prior criminal record that he or she was not arrested or granted deferred entry of judgment for the offense, except as specified in subdivision (b). A record pertaining to an arrest resulting in successful completion of a deferred entry of judgment program shall not, without the defendant's consent, be used in any way that could result in the denial of any employment, benefit, license, or certificate.

(b) The defendant shall be advised that, regardless of his or her successful completion of the deferred entry of judgment program, the arrest upon which the judgment was deferred may be disclosed by the Department of Justice in response to any peace officer application request and that, notwithstanding subdivision (a), this section does not relieve him or her of the obligation to disclose the arrest in response to any direct question contained in any questionnaire or application for a position as a peace officer, as defined in Section 830.

Health & Safety Code §11361.7

11361.7. (a) Any record subject to destruction or permanent obliteration pursuant to Section 11361.5, or more than two years of age, or a record of a conviction for an offense specified in subdivision (a) or (b) of Section 11361.5 which became final more than two years previously, shall not be considered to be accurate, relevant, timely, or complete for any purposes by any agency or person. The provisions of this subdivision shall be applicable for purposes of the Privacy Act of 1974 (5 U.S.C. Section 552a) to the fullest extent permissible by law, whenever any information or record subject to destruction or permanent obliteration under Section 11361.5 was obtained by any state agency, local public agency, or any public or private agency that provides services upon referral under Section 1000.2 of the Penal Code, and is thereafter shared with or disseminated to any agency of the federal government.

(b) No public agency shall alter, amend, assess, condition, deny, limit, postpone, qualify, revoke, surcharge, or suspend any certificate, franchise, incident, interest, license, opportunity, permit, privilege, right, or title of any person because of an arrest or conviction for an offense specified in subdivision (a) or (b) of Section 11361.5, or because of the facts or events leading to such an arrest or conviction, on or after the date the records of such arrest or conviction are required to be destroyed by subdivision of Section 11361.5, or two years from the date of such conviction or arrest without conviction with respect to arrests and convictions occurring prior to January 1, 1976. As used in this subdivision, "public agency" includes, but is not limited to, any state, county, city and county, city, public or constitutional corporation or entity, district, local or regional political subdivision, or any department, division, bureau, office, board, commission or other agency thereof.

(c) Any person arrested or convicted for an offense specified in subdivision (a) or (b) of Section 11361.5 may, two years from the date of such a conviction, or from the date of the arrest if there was no conviction, indicate in response to any question concerning his prior criminal record that he was not arrested or convicted for such offense.

(d) The provisions of this section shall be applicable without regard to whether destruction or obliteration of records has actually been implemented pursuant to Section 11361.5.



MEMORANDUM

DATE	January 23, 2013
TO	Advisory Committee Members Professional Fiduciaries Bureau
FROM	Gil DeLuna, Acting Bureau Chief
SUBJECT	Agenda Item #7 – Bureau Update, Gil DeLuna, Acting Chief

Status of the Bureau – Gil DeLuna

- Enforcement – presentation by Dave Thornton, Investigator
- Complaint Process – Dave Thornton
- Citation Process – Dave Thornton
- Bureau - E-Newsletter
- Senior Portal – www.Seniors.ca.gov

Attachment #4 (October 8, 2012 News Article)
Attachment #5 (Non-Profit link application)

- Reporting Unlicensed Activity
- Regulations
- Budget Report – DCA Budget Office

Attachment #6 (Bureau Fund Condition Report)

- Public Comment:

Attachment # 4

State sets up new tool for seniors to avoid scams

Monday, October 08, 2012

Some people who are most vulnerable when it comes to rip-offs are now getting new help.

Seniors, who have traditionally been targets for con artists, now have a new tool in the state of California, to learn how to avoid becoming victims of personal or financial abuse.

The state of California's, seniors.ca.gov, was designed to provide seniors, with the information they need to connect to helpful services and resources.

Related Content

[More: Seniors.ca.gov](#)

The State Department of Insurance says when seniors are the victims of fraudulent schemes, it's not just them who pays the price.

"It also is devastating for families because if someone is ripped off in their later years, they don't have the economical wherewithal to restore that money. And that means their families or the state or local governments are forced to try and care for that individual because they no longer have the wherewithal to care for themselves," said California Insurance Commissioner Dave Jones.

The department says it will be tracking hits to the website to determine how often it's used.

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Attachment # 5



Senior Gateway

APPLICATION TO BE LISTED AS A RESOURCE (12/2012)

ORGANIZATION INFORMATION

Organization Name: _____ Website: _____

Contact Name and Title: _____

Phone Number: _____ Date: _____

Mission: _____

INSTRUCTIONS

Please respond to the following questions. Note: Applications are subject to the E-FAIR working group's discretion and final approval. We are looking for unique resources that will not duplicate the information already listed on our website. We may follow up with additional questions if needed.

QUESTIONS

Organization type (check one): Government or regulatory entity Non-profit 501(c)(3)
 Other _____

Does your organization:

- sell any goods or services
- provide written materials that list the goods or services of other organizations or persons that are **not** offered free of charge
- share its member lists with others (explain the types of entities or people)
- offer any additional services

If you have checked any of the above boxes, please provide an explanation of your answers here:

What is the primary purpose of the organization? Additionally, please explain the unique nature of the organization or the services it provides to seniors, if applicable.

Describe the geographic area served by the organization as well as the demographics of the population you serve.

SIGNATURE

Name of Responsible Party (PRINT)

Signature of Responsible Party*
(e.g. Executive Director, Officer, Board Member)

Date Signed

*By signing here, you agree that neither you nor any officer of your Board have not been convicted of, or pled guilty or nolo contendere to, any violation of any federal or state statute, city or county ordinance, or law of a foreign country in the past five years. This includes all misdemeanor and felony convictions.

Attachment # 6

3108 - Professional Fiduciaries Bureau Analysis of Fund Condition

Prepared 1/15/2013

(Dollars in Thousands)

Proposed Gov's Budget FY 13-14

	Governor's Budget				
	ACTUAL 2011-12	CY 2012-13	BY 2013-14	BY +1 2014-15	BY +2 2015-16
BEGINNING BALANCE	\$ 56	\$ 237	\$ 322	\$ 448	\$ 568
Prior Year Adjustment	\$ 2	\$ -	\$ -	\$ -	\$ -
Adjusted Beginning Balance	\$ 58	\$ 237	\$ 322	\$ 448	\$ 568
REVENUES AND TRANSFERS					
Revenues:					
125600 Other regulatory fees	\$ -	\$ -	\$ -	\$ -	\$ -
125700 Other regulatory licenses and permits	\$ 112	\$ 138	\$ 145	\$ 145	\$ 145
125800 Renewal fees	\$ 306	\$ 350	\$ 420	\$ 420	\$ 420
125900 Delinquent fees	\$ 1	\$ 2	\$ 2	\$ 2	\$ 2
141200 Sales of documents	\$ -	\$ -	\$ -	\$ -	\$ -
142500 Miscellaneous services to the public	\$ -	\$ -	\$ -	\$ -	\$ -
150300 Income from surplus money investments	\$ 1	\$ 1	\$ 1	\$ 2	\$ 2
150500 Interest from Interfund loan	\$ -	\$ -	\$ -	\$ -	\$ -
160400 Sale of fixed assets	\$ -	\$ -	\$ -	\$ -	\$ -
161000 Escheat of unclaimed checks and warrants	\$ -	\$ -	\$ -	\$ -	\$ -
161400 Miscellaneous revenues	\$ -	\$ -	\$ -	\$ -	\$ -
Totals, Revenues	\$ 420	\$ 491	\$ 568	\$ 569	\$ 569
Transfers from Other Funds					
Transfers to Other Funds					
Totals, Revenues and Transfers	\$ 420	\$ 491	\$ 568	\$ 569	\$ 569
Totals, Resources	\$ 478	\$ 728	\$ 890	\$ 1,017	\$ 1,137
EXPENDITURES					
Disbursements:					
0840 State controller (State Operations)	\$ -	\$ 1	\$ -	\$ -	\$ -
8860 FSCU (State Operations)	\$ 1	\$ 2	\$ 2	\$ -	\$ -
1111 Program Expenditures (State Operations) -	\$ 240	\$ 403	\$ 440	\$ 449	\$ 458
9670 Equity Claims / Board of Control (State Operations)	\$ -	\$ -	\$ -	\$ -	\$ -
Total Disbursements	\$ 241	\$ 406	\$ 442	\$ 449	\$ 458
FUND BALANCE					
Reserve for economic uncertainties	\$ 237	\$ 322	\$ 448	\$ 568	\$ 679
Months In Reserve	7.0	8.7	12.0	14.9	17.5

NOTES:

- A. ASSUMES WORKLOAD AND REVENUE PROJECTIONS ARE REALIZED
- B. ASSUMES 2% GROWTH IN EXPENDITURES IN FY 2014-15
- C. ASSUMES 0.3% GROWTH IN INCOME FROM SURPLUS MONEY



MEMORANDUM

DATE	January 23, 2013
TO	Advisory Committee Members Professional Fiduciaries Bureau
FROM	Gil DeLuna, Bureau Acting Chief
SUBJECT	Agenda Item #8 – Discussion on Good Practices for Fiduciaries - Chair

**Committee Chair, Marguerite Lorenz will lead a discussion on
“Good Practices for Professional Fiduciaries”**

Issue:

As a result of the August 28, 2012 Advisory Committee meeting in Sacramento, a decision was made to add to the agenda, a discussion on various fiduciary practices that include but not limited to:

- Competitors in terms of fees
- Professional fiduciary fees and fees-on-fees
- Advertising

Action(s):

Public comment:



MEMORANDUM

DATE	January 23, 2013
TO	Advisory Committee Members Professional Fiduciaries Bureau
FROM	Gil DeLuna, Acting Bureau Chief
SUBJECT	Agenda Item #9 – Discussion on Licensing Requirements - Chair

Issue:

As a result of the August 28, 2012 Advisory Committee meeting in Sacramento, a decision was made to add to the agenda, a discussion on licensing requirements due to a concern about the level of education, requirements, and education of new licensees.

Suggestions were also brought forward to discuss establishing a required level of mentoring, before and after the exam, required supervised hours of internship, mandatory court observation, and a possible trainee license.

Bureau information regarding testing:

Bureau pass/fail rate is as follows:

Fiscal Year	National Pass %	National Fail%	State Pass%	State Fail%	Total	
					Pass%	Fail%
2008/2009	87.55	12.45	74.61	25.39	80.57	19.43
2009/2010	93.64	6.36	70	30	80.40	19.60
2010/2011	94.83	5.17	70.59	29.41	81.04	18.96
2011/2012	92.77	7.23	77.32	22.68	84.44	15.56
*2012/2013	73.24	25.76	59.42	40.58	70.34	29.66

* New test starting 8/1/2012 as a result of an occupational analysis conducted by the Bureau's test contract administrator.

Action(s) decided by the Committee:

Public Comment:



MEMORANDUM

DATE	January 23, 2013
TO	Advisory Committee Members Professional Fiduciaries Bureau
FROM	Gil DeLuna, Acting Bureau Chief
SUBJECT	Agenda Item #10 – Strategic Plan Update / Discussion – Gil DeLuna / Angela Bigelow

The current strategic plan for the Bureau will expire this year. To prepare for creating a new plan, the discussion will be about timelines, the process and any other issue regarding preparation and implementation.

Attachment #7 (Information on Performance Based Budgets)

Attachment #8 (Strategic Plan Process)

Public Comment:

Attachment # 7

BUSINESS, CONSUMER SERVICES, AND HOUSING

The Business, Consumer Services, and Housing Agency's mission is to assist, educate, and protect consumers, as well as regulate businesses. Among its many responsibilities, the Agency oversees the following departments that license more than 3.3 million Californians in more than 250 different professions:

- Department of Consumer Affairs
- Housing and Community Development
- Department of Fair Employment and Housing
- Department of Business Oversight
- Department of Alcoholic Beverage Control
- Alcoholic Beverage Control Appeals Board
- California Horse Racing Board
- Alfred E. Alquist Seismic Safety Commission

The Budget includes total funding of \$1.1 billion (\$20 million General Fund and \$1.1 billion various funds) for the Agency.

The Agency, established as part of the Governor's 2012 Reorganization Plan, becomes operational on July 1, 2013.

DEPARTMENT OF CONSUMER AFFAIRS

The Department of Consumer Affairs (DCA) oversees a wide variety of Boards and Bureaus that certify, register, and license individuals and entities that provide goods and/or services in the state. The overall purpose of DCA is to promote a fair and competitive marketplace in which consumers are protected. DCA provides exams and licensing as well as mediation and enforcement of consumer complaints. When appropriate, cases are referred to the Attorney General's office or other law enforcement authorities for administrative action, civil and/or criminal prosecution.

There are currently 26 boards, 9 bureaus, 2 committees, a certification program, and a commission under the broad authority of DCA.

PERFORMANCE-BASED BUDGETING

Executive Order B-13-11 directs the Department of Finance to modify the state budget process to increase efficiency and focus on accomplishing program goals. Pursuant to this Executive Order, Finance and DCA developed a multi-year plan to evaluate the performance of DCA's programs. As part of the plan, DCA will:

- Require that all of its boards, bureaus, and divisions undergo a program evaluation to determine appropriate enforcement and licensing performance measures. DCA has already begun a pilot program to conduct such evaluations of two of its programs—the Bureau of Security and Investigative Services and the Dental Board of California.
- Require that all of its boards, bureaus, and divisions have well-developed and up-to-date strategic plans.
- Include additional information in the 2013-14 Governor's Budget which highlights DCA's enforcement targets and provides two years of actual enforcement performance data. This will track the amount of time it takes between a complaint being received by a board or bureau and its resolution. Once DCA's licensing and enforcement information technology program, BrEZe, begins implementation in March 2013, DCA will be able to uniformly track the licensing data of its boards and bureaus. DCA plans to include the licensing performance categories and targets in the 2014-15 Governor's Budget and will begin displaying licensing data in the 2015-16 Governor's Budget.
- Focus on those programs that are unable to reach their performance targets and identify processes that can be streamlined and improved.

IMPROVING THE BUDGET PROCESS THROUGH ZERO-BASING AND OTHER TOOLS

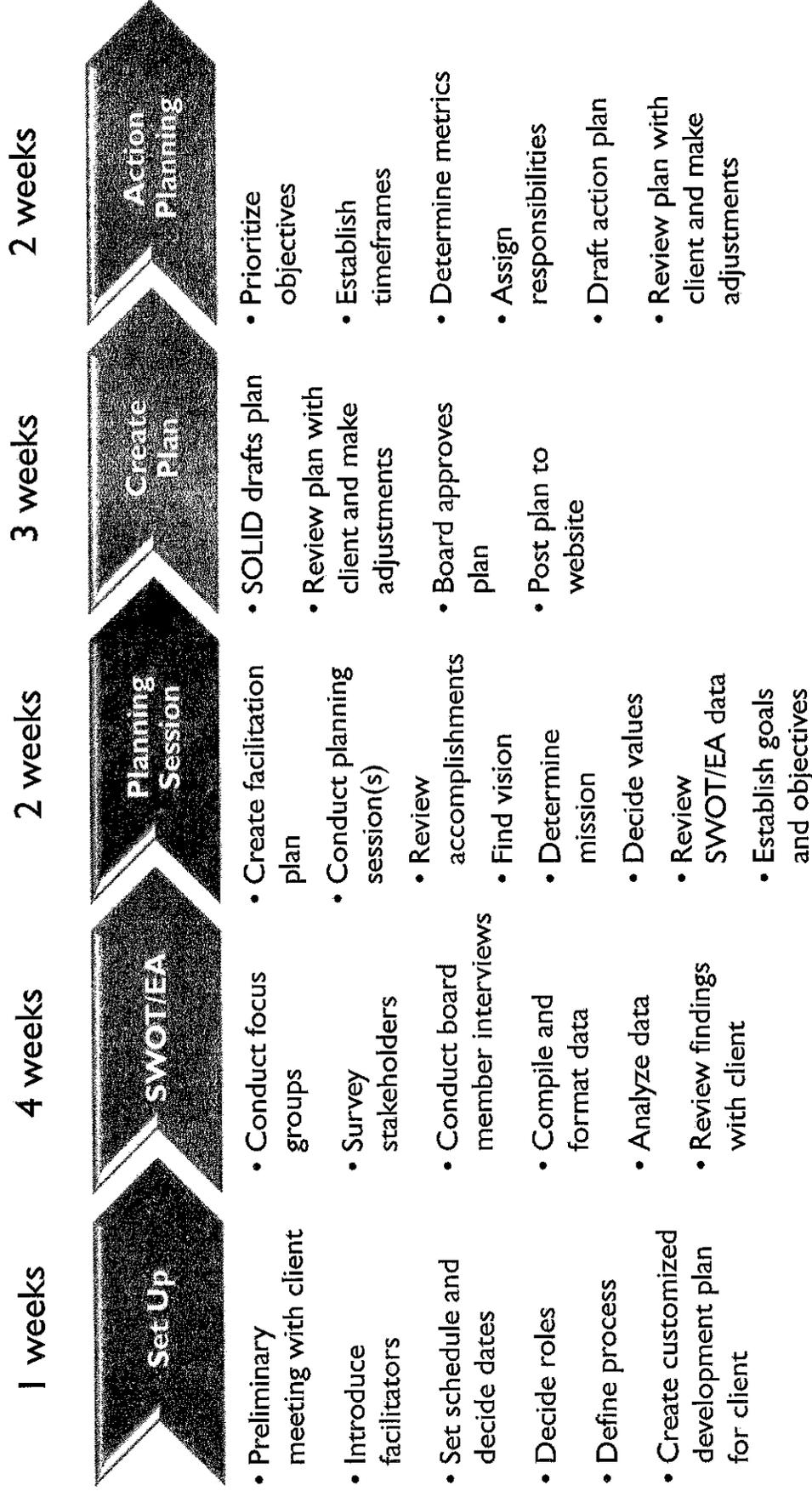
Executive Order B-13-11 directed the Department of Finance to modify the state budget process to increase efficiency and focus on accomplishing program goals. The Administration completed several zero-base reviews—for the state hospitals and the state prisons—which led to significant changes being included in the 2012 Budget. The Budget reflects continued implementation of the Executive Order, including:

- The Department of Consumer Affairs is requiring each of its boards, bureaus, and divisions to determine appropriate enforcement and licensing performance measures, with updated data to be provided in each year's budget.
- The California Department of Human Resources is implementing streamlined services for departments. The Department has also expanded the use of consortium examinations, accelerated the approval process for routine personnel issues, streamlined the selection process for career executive assignments, and modernized the training classes and resources available online.
- Both the Department of Transportation (Caltrans) and the Department of Public Health (DPH) are undertaking a multiyear process to zero-base their budgets. The Budget reflects changes to the Local Assistance and Planning Programs within Caltrans, including the consolidation of five programs into a single Active Transportation Program which will simplify and enhance funding for pedestrian and bicycle projects. The results of the first year of the DPH review will be provided this spring.

Additional departments will be undertaking reviews in the coming months, including the Department of Veterans Affairs, the Department of Resources Recycling and Recovery, and the Department of Toxic Substances Control.

Attachment # 8

Strategic Development Roadmap



Minimum development time: 3 months



MEMORANDUM

DATE	January 23, 2013
TO	Advisory Committee Members Professional Fiduciaries Bureau
FROM	Gil DeLuna, Acting Bureau Chief
SUBJECT	Agenda Item #11 Future Meeting Dates and Agenda Items

Public Comment:



MEMORANDUM

DATE	January 23, 2013
TO	Advisory Committee Members Professional Fiduciaries Bureau
FROM	Gil DeLuna, Acting Bureau Chief
SUBJECT	Agenda Item #12 – Public Comment, Not on the Agenda

Note: The Professional Fiduciaries Bureau Advisory 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.