

Professional Fiduciaries Bureau
Post Office Box 989005
West Sacramento, CA 95798-9005
Telephone: (916) 574-7340 FAX (916) 574-8645
Website: www.fiduciary.ca.gov



Professional Fiduciaries Bureau Advisory Committee Meeting

**Thursday, May 29, 2014
12:30 p.m. – 4:00 p.m. or conclusion**

**Meeting Location:
Department of Consumer Affairs – HQ2
1747 N. Market Boulevard, Floor Hearing Room #186
Sacramento, CA 95834**

Committee Members

Marguerite Lorenz – Chair
Barbara de Vries, Vice Chair
Aileen Federizo
Prescott Cole
Kathleen Thomson
Diana Amaya
Hang Le To

Webcast

- 1) Call to Order – Marguerite Lorenz, Chair
- 2) Roll Call – Julia Ansel, Bureau Chief
- 3) Introductions
- 4) Approval of the Advisory Committee Meeting Minutes from February 3, 2014
- 5) Updates from the Director's Office – Executive Staff
- 6) Budget Report – DCA Budget Analyst
- 7) Legislative Update – DCA Legislative Analyst
 - AB 1339 Clarification – Angelique Scott
- 8) Discussion on Current Fee Structure
- 9) Education Subcommittee Report – Barbara de Vries, Subcommittee Chair
 - Status of Subcommittee
 - Future Meetings

10) Ethics Subcommittee Report – Aileen Federizo, Subcommittee Chair

- Status of Subcommittee
- Future Meetings

11) Bureau Update – Julia Ansel, Bureau Chief

- Status of the Bureau
- Fiscal Year to date statistics
- E-Newsletter
- Regulations
- Sunset Review
- Committee guidelines

12) Complaint and Enforcement Process – Dave Thornton

13) Future Agenda Items

14) Future Meeting Dates

- Advisory Committee
- Education Subcommittee
- Ethics Subcommittee

15) Public Comment on Items Not on the Agenda (See “**Note**” below)

16) Adjournment

Please note: 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 Professional Fiduciaries Bureaus 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 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 Bigelow at (916) 574-7341, angela.bigelow@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. Bigelow at the same address and telephone number.

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**MEMORANDUM**

DATE	May 29, 2014
TO	Advisory Committee Members Professional Fiduciaries Bureau
FROM	Professional Fiduciaries Bureau
SUBJECT	Agenda Item #1 - Call to Order- Marguerite Lorenz, Chair Agenda Item #2 – Roll Call – Julia Ansel, Bureau Chief

Advisory Committee Members:

Marguerite Lorenz – Chair

Barbara de Vries – Vice Chair

Aileen Federizo –Professional Fiduciary

Prescott Cole – Governor Appointee – Nonprofit Organization Advocating on Behalf of the Elderly

Kathleen Thomson – Governor Appointee – Probate Court Investigator

Diana Amaya – Senate Appointee – Programs & Policy Coordinator for HOPE, a Non-Profit Organization

Hang Le To – Speaker of the Assembly Appointee – Finance Coordinator for the San Francisco Labor Council

Attachment # 1: Business and Professions Code 6511

Attachment #1

BUSINESS AND PROFESSIONS CODE - BPC

DIVISION 3. PROFESSIONS AND VOCATIONS GENERALLY [5000 - 9998.8]

(Heading of Division 3 added by Stats. 1939, Ch. 30.)

CHAPTER 6. Professional Fiduciaries [6500 - 6592]

(Chapter 6 added by Stats. 2006, Ch. 491, Sec. 3.)

ARTICLE 2. Administration [6510 - 6520]

(Article 2 added by Stats. 2006, Ch. 491, Sec. 3.)

6511.

(a) There is within the bureau a Professional Fiduciaries Advisory Committee. The committee shall consist of seven members; three of whom shall be licensees actively engaged as professional fiduciaries in this state, and four of whom shall be public members. One of the public members shall be a member of a nonprofit organization advocating on behalf of the elderly, and one of the public members shall be a probate court investigator.

(b) Each member of the committee shall be appointed for a term of four years, and shall hold office until the appointment of his or her successor or until one year shall have elapsed since the expiration of the term for which he or she was appointed, whichever first occurs.

(c) Vacancies shall be filled by the appointing power for the unexpired portion of the terms in which they occur. No person shall serve as a member of the committee for more than two consecutive terms.

(d) The Governor shall appoint the member from a nonprofit organization advocating on behalf of the elderly, the probate court investigator, and the three licensees. The Senate Committee on Rules and the Speaker of the Assembly shall each appoint a public member.

(e) Every member of the committee shall receive per diem and expenses as provided in Sections 103 and 113.

(f) **The committee shall do all of the following:**

(1) Examine the functions and policies of the bureau and make recommendations with respect to policies, practices, and regulations as may be deemed important and necessary by the director or the chief to promote the interests of consumers or that otherwise promote the welfare of the public.

(2) Consider and make appropriate recommendations to the bureau in any matter relating to professional fiduciaries in this state.

(3) Provide assistance as may be requested by the bureau in the exercise of its powers or duties.

(4) Meet at least once each quarter. All meetings of the committee shall be public meetings.

(g) The bureau shall meet and consult with the committee regarding general policy issues related to professional fiduciaries.

The bureau may adopt, amend, or repeal, in accordance with the provisions of the



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MEMORANDUM

DATE	May 29, 2014
TO	Advisory Committee Members Professional Fiduciaries Bureau
FROM	Professional Fiduciaries Bureau
SUBJECT	Agenda Item #3 - Introductions

Advisory Committee Members:

Marguerite Lorenz – Chair
Barbara de Vries – Vice Chair
Aileen Federizo – Professional Fiduciary
Prescott Cole – Nonprofit Organization Advocating on Behalf of the Elderly
Kathleen Thomson – Probate Court Investigator
Diana Amaya – Programs & Policy Coordinator for Non-Profit
Hang Lee To – Finance Coordinator, Labor Council

PFB Staff Present:

Julia Ansel, Bureau Chief
Sonja Merold, Acting Chief, Division of Programs & Policy Review
Angelique Scott, DCA Legal Counsel
Angela Bigelow, Program Analyst
Jenny Turner, Analyst



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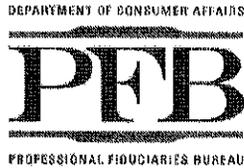


MEMORANDUM

DATE	May 29, 2014
TO	Advisory Committee Members Professional Fiduciaries Bureau
FROM	Professional Fiduciaries Bureau
SUBJECT	Agenda Item #4 - Approval of the Advisory Committee Meeting Minutes from February 3, 2014

Attachment #2: Advisory Committee Meeting Minutes from February 3, 2014

Attachment #2



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**Professional Fiduciaries Bureau
Advisory Committee Meeting
February 3, 2014**

**1625 N. Market Boulevard, 1st Floor Hearing Room
Sacramento, CA 95834**

Committee Members Present

Marguerite Lorenz, Chair
Barbara de Vries, Vice Chair
Aileen Federizo, CLPF
Prescott Cole, Non-Profit Advocate on Behalf of the Elderly
Kathleen Thomson, Probate Investigator
Diana Amaya, Public Member
Hang Le To, Public Member

Staff Present

Julia Ansel, Bureau Chief
Sonja Merold, Acting Chief, Division of Programs and Policy Review
Angelique Scott, DCA Legal Counsel
Angela Bigelow, Program Analyst

1. Call to Order – Marguerite Lorenz, Committee Chair
The meeting was called to order by Ms. Lorenz, Chair at 12:32p.m.
2. Roll Call – Julia Ansel, Bureau Chief
Ms. Ansel welcomed our two newest Committee Members and read the Professional Fiduciaries Bureau's (Bureau) Mission Statement. Ms. Ansel called roll and there were seven members present and a quorum was established. Ms. Lorenz acknowledged this is the first time the Bureau has had all Committee positions filled since the inception of the Bureau.
3. Introductions
Those in attendance introduced themselves.
4. Approval of the Advisory Committee Meeting Minutes
 - July 31, 2013 Meeting Minutes (Revised)
Ms. de Vries motioned to approve the revised minutes as written; the motion was seconded by Ms. Federizo; no one opposed; and the motion carried.
 - November 19, 2013 Meeting Minutes

Ms. de Vries motioned to approve the minutes with corrections to pages 4 and 8; the motion was seconded by Ms Federizo; no one opposed; and the motion carried.

5. Update from the Director's Office – Corrine Fishman, Executive Office
Ms. Fishman introduced herself and announced the Department of Consumer Affairs (DCA) had just released its new strategic plan. Ms. Fishman passed out copies to each of the Committee Members.

6. Budget Report – Robert de los Reyes, DCA Budget Analyst
Mr. de los Reyes explained that the fund condition is a tool used to track revenue and expenditures for the Bureau. The report shows what has been approved for the Bureau in the Governor's 2014/15 Budget. The Bureau submitted a Budget Change Proposal (BCP) for an Enforcement Analyst position and a two year limited-term for a line item for Enforcement. The BCP is still subject to legislative review. Ms. Lorenz asked what the time line is for the approval or disapproval. Mr. de los Reyes stated the decision will show in the Budget Act which will be released in May of 2014 and if approved, the proposal will be for the FY 2014/15 budget.

7. Legislative Update – Scott Allen, DCA Legislative Analyst
Mr. Allen stated the disposition of the bills presented at the last meeting had not change, and that no new legislation had been introduced since the Bureau's last meeting. Ms. Lorenz asked that at the next meeting an attachment be included with current legislation (even if there are no changes) due to the fact that there may be people in attendance who were not at the last meeting. Mr. Allen stated the deadline to introduce new legislations is February 21, 2014.

There was a question from a member of the public at the last meeting with regard to the wording of AB1339. Ms. Scott stated it was appropriate to speak about it during this section of the agenda. Mr. Allen explained that AB 1339 requires a Professional Fiduciary to disclose their fees when petitioning the court in a new case. The question was whether this applies to a licensee if he/she is not required to be licensed. Mr. Allen has been in contact with the sponsor of the bill and is waiting for a reply. He hopes to clarify this at the Bureau's next meeting. Ms. Scott pointed out on page 7 of the last meeting minutes there is a reference to AB 1339. She also asked that the Bureau add this to the next meeting agenda. Ms. Federizo asked if the courts are asking for this now and Mr. Allen stated he assumed that when the law went into effect on January 1, 2014 the courts started enforcing it. Ms. Lorenz stated it may be too soon to know since there have only been a few days on calendar since the law went into effect and many fiduciaries have not been to court yet. Mr. Cole asked Mr. Scott to track a number of residential care facility bills which he believes will affect Professional Fiduciaries. He also asked about the Bureau's Sunset Bill. Mr. Allen stated it will be

introduced this year. Mr. Cole asked if legislation for continuing education requirements could be added to this bill and Ms. Lorenz directed the question to Ms. Ansel. Ms. Ansel stated this is not the correct forum for this type of legislation. Ms. Scott reminded the Committee members to stay on topic of the agenda item and stated this could be added to the next agenda. Ms. Lorenz asked that the topic of Sunset Review be added to the next agenda and Ms. Ansel stated there will be a hearing in March and she will report at the next meeting.

8. Education Subcommittee Report - Barbara de Vries, Subcommittee Chair

- Status of Subcommittee

Ms. de Vries stated the subcommittee members are she, Mr. Cole, and Mr. Urbatsch. The subcommittee held its third meeting this morning. The subcommittee has been tasked to create criteria for the Bureau staff to use to approve providers, determine the feasibility of requiring internships for licensure, and a requirement for advocacy for the elderly and elder abuse topics. For the next meeting the subcommittee members will be presenting their ideas on how to divide the prelicensing hours by percentage. Ms. Lorenz asked that the subcommittee members keep in mind the exam topics currently in use.

- University of Berkeley Presentation - Anna Lee, Program Director

Ms. de Vries introduced Ms. Lee and that this will be the final presentation from the fiduciary extension programs.

Ms. Lee stated the extension program was founded by the University of Berkeley (UCB) 123 years ago and the program provides continuing education and professional education for adults. Students take the certificate programs to advance or change careers there are 75 professional certificates and programs and over 2,000 in person and on-line courses.

The Fiduciary Program is a special studies program now and will become a certificate program in the future. For the spring of 2014 there are three courses which started January 21, 2014. In the summer of 2014 there will be three more courses then the program will apply to become a certificate program. These courses fall under the business section of UCB. Students want to come to UCB because of the academic excellence and the programs are approved by WASC. The courses are approved by an advisory committee that is made up of senior faculty members. The UCB approves the instructors and the program is specialized in fiduciary management providing professional responsibilities and requirements such as standards, practices, legal, and ethical considerations. There's a growing demand for Professional Fiduciaries due to California's growing aging

population. It is projected that the number of persons over the age of 65 will double in the next 20 years to approximately 8.4 million and qualified Professional Fiduciaries are needed. Many family members live too far away, are not interested, or lack the skills to handle accounting and medical decisions for their loved ones.

UCB strives to offer a high quality program. The goals are to:

- offer high quality relevant courses,
- help students meet the Bureau's prelicensing education requirements,
- and to work closely with the Bureau and the Professional Fiduciary Association of California (PFAC) to enhance education in the State of California.

The special studies program is starting with three in-person classes offering three units which total 45 hours of instruction. The first three courses will be:

- Introduction to being a private Professional Fiduciary, special needs trusts, public benefits
- Administration of Person (power of attorney, healthcare, conservatorship)
- Administration of Estate (probate, trust, conservatorship)

There is a fee of \$595 for each course.

In the summer of 2014 there will be three additional classes offered:

- Fiduciary Accounting and Taxation
- Financial Planning and Investment Portfolio Management and Fiduciary Ethics and Conflict Resolution
- Best practices

UCB also offers a free information session to help students learn about the program, its courses, and the instructors. At this session, the students can meet other students and ask questions. One of the questions was how to find a job after being licensed and Ms. Lorenz asked how that was answered. Ms. Lee answered the students work with classmates and instructors and talk with other licensed Professional Fiduciaries to possibly shadow them. Ms. Lee offered contact information to the Committee for the UCB program staff. Ms. Federizo asked if the units are transferable to other certificate programs, but they are not at this time. Ms. Lorenz asked if the program can survive if there are only five students and Ms. Lee stated the program is willing to take a loss for a couple of years if needed. Ms. Lorenz also asked how the program is being marketed and Ms. Lee answered at conferences, with the free information sessions, the UCB Website, and the program is looking for other avenues.

Ms. Lorenz asked if there is a budget for marketing and there is. Ms. To asked if an internship program is offered and Ms. Lee said not at this time, however, the Education Subcommittee has been discussing this and Ms. de Vries will be giving a report at the next Committee meeting. Ms. de Vries asked if the instructors are required to submit an outline and they do. Ms. Lee will send a soft copy of the syllabus to Ms. de Vries. Additionally, Ms. de Vries inquired about the portion of the presentation that states, "Our special study courses are developed using the Bureau's Education Subcommittee proposed courses guidelines" and this guideline does not exist. Ms. Lee answered UCB used the seven topics provided to her by Mr. Urbatsch that were discussed at one of the meetings. Ms. Lorenz commented that family members cannot be objective when it comes to their own family and that Professional Fiduciaries are able to be objective and have the proper training. Mr. Cole asked if the courses are offered in 45 hours of instruction, how would UCB offer continuing education (CE)? Ms. Lee replied CE that is not yet available through this program. He also asked if UCB will be able to adjust their program if the Bureau changes its requirements and Ms. Lee said they would. Ms. To asked if all classes are complete, do the students receive certification? Ms. Lee stated they will receive credits, but the program is not approved as a certificate program yet.

Ms. Lorenz commented that one of the definitions of a fiduciary is an individual in whom another has placed the utmost trust and confidence to manage and protect their property; a person legally appointed and authorized to hold assets in trust for another person. It is important to remember the duty of a fiduciary is to put the client first, sometimes even before yourself.

9. Ethics Subcommittee Report – Aileen Federizo, Subcommittee Chair

- Status of the Subcommittee

The Subcommittee held a meeting via teleconference on January 28, 2014 the attendees were Ms. Ansel, Ms. Merold, and Ms. Bigelow. The members of the Subcommittee are Ms. Federizo and Ms. Thomson. Ms. Lorenz had to step down, but fortunately Ms. Thomson was able to take her place. The purpose of the Subcommittee is to determine if the California Code of Regulation, section 4470-4484 is understandable and reasonable. The Subcommittee will make recommendations to the Bureau. One problem the Subcommittee found is a conflict relating to fees when the licensee is charging the client for responding to the Bureau on a complaint. If a complaint was made to another board or bureau in DCA, the licensee does not charge the client when talking with the Bureau and Professional Fiduciaries should not do this. Citations have been issued under regulation section 4476(b) which states this may be seen as self-serving or adverse to the consumer. The next problem is the reasonableness of fees. Some newer fiduciaries are charging for what could be considered

their learning curve. For example when submitting an accounting, the fiduciary submits on the wrong form or without the correct schedules then charges the client for fixing the error. Lastly, conflicts such as gift giving were brought up. A fiduciary purchased a pizza for the court investigators and did not understand what the problem was with this action. Gift giving is not okay and is a conflict of interest.

The Subcommittee made the following recommendations:

- When the Bureau contacts the licensee, the Bureau staff should inform the licensee not to charge the client for the time spent talking to the Bureau.
- This issue could be part of a continuing education course. Ms. Federizo will talk to PFAC about adding this to one of the courses at their annual conference

The Subcommittee discussed making the conflicts section more clear, but because the section is written in a broad general format, not every conflict can be listed, so it will not be changed at this time.

Ms. Lorenz had concerns about the learning curve. Sometimes the judge will demand changes or additional information for a perfectly good accounting. Ms. Federizo replied it would have to be reviewed on a case-by-case basis but if it is a new request that should not be a problem. Mr. Cole would like to see conflict include licensees who hold other licenses such as insurance agents not being allowed to sell annuities to their clients. Ms. Federizo stated the Subcommittee members will be reviewing the section more thoroughly over the next 4-6 weeks. Mr. Cole asked that they look into the issue as possibly self-dealing. Ms. Lorenz stated Professional Fiduciaries are prohibited from receiving referral fees and are not allowed to refer cases to family members for outside services. Ms. Scott stated that section 4476 states licensees are to avoid actual or reasonably perceived conflicts and Ms. Lorenz commented if you are in doubt, call the Bureau.

Mr. Counts made a public comment suggesting the subcommittee set up a system for the Bureau to offer interpretations of right and wrong to be distributed to licensees.

10. Outreach Discussion – Julia Ansel, Bureau Chief and Prescott Cole
Ms. Ansel reported the Bureau has created an outreach presentation for Committee members to use at outreach events and it will be available soon for the Committee. The DCA Outreach Office will be working with the Bureau staff and the Committee members to find events. Ms. Lorenz would like to see a set of rules or guidelines outlining proper conduct when speaking on behalf of the Bureau and Ms. Ansel will create this. Ms. Ansel stated the

Bureau does not see a need at this time for an outreach subcommittee but this can be discussed at a later time if the need arises. Mr. Cole would like the Bureau to allow other licensees to make this presentation, similar to a program the State Bar has called Textcom. Textcom has an outreach project where they speak about elder abuse. There is a package and a script to follow which is a safeguard for consumers as they are not allowed to deviate from the presentation. There could be a requirement for the presenter to tape their presentation for later review to ensure compliance. There were questions and concerns about if a presenter is approached after the presentation and asked to be hired and this will be clarified in the guidelines. Ms. Scott stated that the Bureau cannot authorize licensees to do the presentation on behalf of the Bureau. The Bureau can only authorize PFB staff, DCA staff, and Committee Members to be a representative of the Bureau at outreach events. Mr. Cole asked if a DVD of the presentation could be created and distributed and Ms. Scott replied this can be done if the Bureau Chief believes it is appropriate.

Mr. Counts made a public comment that the Board of Accountancy does something similar to Textcom.

11. Bureau Updates – Julia Ansel, Bureau Chief

- Status of the Bureau – Currently the Bureau is exceeding all licensing, renewal, and enforcement goals. As a reminder, due to the small staff, renewals usually take up until the expiration date. Please get all renewal requirements in on time. The Bureau staff is busy with Sunset Review and daily operations. Ms. Ansel has submitted a request to attend the PFAC conference in April.
- Fiscal Year-to-Date to date Statistics – The Bureau has issued a total of 754 licenses; 634 are active. For the fiscal year beginning July 1, 2013, the Bureau has received 56 complaints, closed 63, and has 20 pending. The average days to close a complaint is 85 days with the target for DCA being 365 days. The Bureau issued 3 citations for unlicensed activity. Mr. Cole would like a break down of the types of complaints and wants to know why the number of complaints is so low compared to the number of closed complaints. Ms. Ansel replied the Bureau can work on a list of types of complaints. Ms. Bigelow stated there is a “Bureau Actions” page on the website (listed by calendar year) the kind of action that was taken and a general breakdown of the types of complaints received. Ms. Bigelow also stated that some complaints are resolved/mediated and there is not a violation of law, the complaint is closed “no violation”. Mr. Cole would like the website to report whether a complaint is substantiated or not. Ms. Scott explained the Bureau has authority to publish enforcement actions or discipline, but the complaint itself is not public record. Mr. Cole asked if the 20 pending complaints should be listed as accusations on the

website and Ms. Scott explained an Accusation is a formal charging document once the Bureau has determined a licensee's action warrants discipline greater than a citation.

- E-Newsletter – The Bureau Chief welcomes submissions for the next E-newsletter and the deadline is April 15, 2014. The E-newsletter is expected to come out in late spring or early summer. Mr. Cole suggested the Bureau submit an article to Textcom for their newsletter.
- Regulations – The Bureau's Client Notification Regulations have passed through the Legal Office and have been submitted to the Legislative Office in DCA. The Bureau hopes to notice a hearing date in the next couple of months.
- Sunset Review – The hearing will be held in the second or third week of March and the date will be posted on the Bureau's website.

Mr. Counts made a public comment suggesting the Bureau add an "Ethics" column to the newsletter.

12. Future Agenda Items

- Education Subcommittee
- Ethics Subcommittee
- Outreach Status
- Jerry Desmond – AB 1339
- Strategic Plan Update
- Ms. Federizo – Improve Meeting Participation

"Skype" was suggested, however, the Bureau does not have the capability to do this. Ms. Lorenz suggested the public submit questions or comments to the Bureau prior to the meeting.

13. Future Meeting Dates

- Advisory Committee

May 20, 2014

August 27, 2014

November 18, 2014

- Education Subcommittee

April 2, 2014 in San Francisco at 10:00a.m.

- Ethics Subcommittee

None Scheduled

14. Public Comment on Items Not on the Agenda

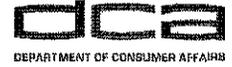
None

15. Adjournment

The meeting was adjourned by Ms. Lorenz at 2:46p.m.



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MEMORANDUM

DATE	May 29, 2014
TO	Advisory Committee Members Professional Fiduciaries Bureau
FROM	Professional Fiduciaries Bureau
SUBJECT	Agenda Item #5 - Update from the Director's Office – Executive Staff

Public Comment:



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MEMORANDUM

DATE	May 29, 2014
TO	Advisory Committee Members Professional Fiduciaries Bureau
FROM	Professional Fiduciaries Bureau
SUBJECT	Agenda Item #6 - Budget Report – DCA Budget Analyst

Attachment #3: Bureau Fund Condition

Public Comment:

Attachment #3

3108 - Professional Fiduciaries Bureau

Analysis of Fund Condition

Prepared 5/21/2014

(Dollars in Thousands)

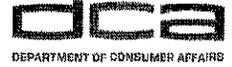
Gov's Budget FY 2014-15		Actuals	CY	GOV BUDGET BY	BY +1
		2012-13	2013-14	2014-15	2015-16
BEGINNING BALANCE		\$ 237	\$ 348	\$ 484	\$ 481
Prior Year Adjustment		\$ -3	\$ -	\$ -	\$ -
Adjusted Beginning Balance		\$ 234	\$ 348	\$ 484	\$ 481
REVENUES AND TRANSFERS					
Revenues:					
125600	Other regulatory fees	\$ 7	\$ 14	\$ 28	\$ 28
125700	Other regulatory licenses and permits	\$ 116	\$ 140	\$ 140	\$ 140
125800	Renewal fees	\$ 353	\$ 420	\$ 420	\$ 420
125900	Delinquent fees	\$ 2	\$ 3	\$ 3	\$ 3
141200	Sales of documents	\$ -	\$ -	\$ -	\$ -
142500	Miscellaneous services to the public	\$ -	\$ -	\$ -	\$ -
150300	Income from surplus money investments	\$ 1	\$ 1	\$ 2	\$ 1
150500	Interest from Interfund loan	\$ -	\$ -	\$ -	\$ -
160400	Sale of fixed assets	\$ -	\$ -	\$ -	\$ -
161000	Escheat of unclaimed checks and warrants	\$ -	\$ -	\$ -	\$ -
161400	Miscellaneous revenues	\$ -	\$ -	\$ -	\$ -
Totals, Revenues		\$ 479	\$ 578	\$ 593	\$ 592
Transfers from Other Funds		\$ -	\$ -	\$ -	\$ -
Transfers to Other Funds		\$ -	\$ -	\$ -	\$ -
Totals, Revenues and Transfers		\$ 479	\$ 578	\$ 593	\$ 592
Totals, Resources		\$ 713	\$ 926	\$ 1,077	\$ 1,073
EXPENDITURES					
Disbursements:					
0840	State Controller (State Operations)	\$ 1	\$ -	\$ -	\$ -
1111	Program Expenditures (State Operations)	\$ 362	\$ 440	\$ 596	\$ 608
8880	Financial Information System for California (State Operations)	\$ 2	\$ 2	\$ -	\$ -
Total Disbursements		\$ 365	\$ 442	\$ 596	\$ 608
FUND BALANCE					
Reserve for economic uncertainties		\$ 348	\$ 484	\$ 481	\$ 465
Months in Reserve		9.4	9.7	9.5	9.8

NOTES:

- A. ASSUMES WORKLOAD AND REVENUE PROJECTIONS ARE REALIZED IN BY+1 AND ONGOING
- B. EXPENDITURE GROWTH PROJECTED AT 2%
- C. ASSUMES 0.3% GROWTH IN INCOME FROM SURPLUS MONEY



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MEMORANDUM

DATE	May 29, 2014
TO	Advisory Committee Members Professional Fiduciaries Bureau
FROM	Professional Fiduciaries Bureau
SUBJECT	Agenda Item #7 Legislative Update – DCA Legislative Analyst

Attachment #4: Legislation Affecting the Bureau

AB 1339 Clarification: Angelique Scott
Attachment #5: AB1339

Public Comment:

Attachment #4

Legislative Update for the Professional Fiduciaries Bureau Advisory Committee Meeting

May 29, 2014

AB 1859 (Maienschein) Professional fiduciaries: professional corporations

This bill authorizes the creation of licensed professional fiduciary corporations (LPFC). Specifically, this bill authorizes an LPFC to render professional services in conformance with the Moscone-Knox Professional Corporations Act and requires an LPFC to observe statutes and regulations to the same extent as a licensed professional fiduciary. The purpose of this bill is to allow multiple licensed professional fiduciaries to organize as LPFC in order to aggregate discrete specialties within a single firm that also provides corporate protections that protect licensed professional fiduciaries from personal liability.

SPONSOR: Professional Fiduciaries Association

AB 2024 (Bonilla) Professional fiduciaries

This bill authorizes the Professional Fiduciaries Bureau (Bureau) to designate the license of a licensee as "retired" or as "cancelled" upon request of a licensee. This bill also authorizes the Bureau to cancel a license that is not renewed within three years following expiration and to reinstate a license from "retired" to "active" upon request of the licensee and completion of specific requirements. Additionally, this bill specifies that the Bureau has jurisdiction over a license that is retired, inactive, cancelled, suspended, or otherwise restricted. Lastly, this bill also authorizes the Bureau to set fees to designate a license as "retired", "inactive", and to reinstate a license to "active" from "retired" or "inactive."

SPONSOR: Author

AB 2034 (Gatto) Family relations: family visitation and conservatorships

This bill establishes a court process to allow adult children to petition to visit their parents, and requires conservators to notify relatives when conservatees die or are hospitalized. The intent of this bill is to address those instances where adult children have been denied visitation rights, denied notice of hospitalizations, and even denied the knowledge of knowing a parent has died.

SPONSOR: Author

AB 2741 (Bonilla) Professional Fiduciaries Bureau

This bill extends the sunset date of the Professional Fiduciaries Bureau (Bureau) four years to January 1, 2019.

SPONSOR: Author

SB 940 (Jackson) California Conservatorship Jurisdiction Act

This bill establishes the California Conservatorship Jurisdiction Act, effective January 1, 2016, which provides jurisdictional and procedural guidance on conservatorship proceedings between California and other states. The intent of this bill is to alleviate the burdens of handling a conservatorship situation that involves more than one state or jurisdiction.

SPONSOR: California Law Revision Commission

Attachment #5



California
LEGISLATIVE INFORMATION

AB-1339 Professional fiduciaries: guardians and conservators. (2013-2014)

Assembly Bill No. 1339

CHAPTER 248

An act to amend Sections 1510, 1821, 2250, and 2643 of, and to add Sections 2614.7, 2614.8, and 2643.1 to, the Probate Code, relating to professional fiduciaries.

[Approved by Governor September 06, 2013. Filed with Secretary of State September 06, 2013.]

LEGISLATIVE COUNSEL'S DIGEST

AB 1339, Malenschein. Professional fiduciaries: guardians and conservators.

Existing law provides that a relative or other person on behalf of a minor, or a minor if he or she is 12 years of age or older, may file a petition for the appointment of a guardian of the person or estate of the minor. Existing law also provides that certain persons may file a petition for the appointment of a conservator. Existing law provides that on or after the filing of a petition for appointment of a guardian or conservator, a person entitled to petition for the appointment of a guardian or conservator may file a petition for the appointment of a temporary guardian or temporary conservator, as specified. Under existing law, when a petition to appoint a conservator or a temporary conservator is filed, and the petitioner is a professional fiduciary, as defined, the petition must include specified additional information, including the petitioner's license information and a statement explaining who engaged the petitioner or how the petitioner was engaged to file the petition for appointment of a conservator and what prior relationship the petitioner had with the proposed conservatee or the proposed conservatee's family or friends.

This bill would require that when a petition to appoint a conservator or a temporary conservator is filed, and the petitioner or proposed conservator is a professional fiduciary, as defined, the petition also include the petitioner's or proposed conservator's proposed hourly fee schedule or another statement of the petitioner's or proposed conservator's proposed compensation from the estate of the proposed conservatee for services performed. The bill would provide that provision of that schedule or statement shall not preclude a court from reducing the hourly fees or other compensation.

This bill would also require, when a petition to appoint a guardian or temporary guardian is filed, and the petitioner or proposed guardian is a professional fiduciary, as defined, the petition to include the same additional information as when a professional fiduciary files a petition to appoint a conservator or a temporary conservator. The bill would also provide that provision of a proposed hourly fee schedule or another statement of proposed compensation shall not preclude a court from reducing the fees or other compensation.

Existing law requires, within 90 days of a guardian's or conservator's appointment, the guardian or conservator to file an inventory and appraisal.

This bill would require the guardian or conservator, if he or she is a professional fiduciary, as defined, to file concurrently with the inventory and appraisal a proposed hourly fee schedule or another statement of his or her proposed compensation from the estate of the ward or conservatee for services performed. The bill would also authorize the guardian or conservator to submit a new proposed hourly fee schedule or another statement of his or her proposed compensation at any time on or after one year from the original submission, as specified. The bill would provide that filing or submittal of those schedules or statements shall not preclude a court from

reducing the guardian's or conservator's hourly fees or other compensation or his or her attorney's fees, as the case may be.

Existing law permits the court, on petition by the guardian or conservator, to authorize periodic payments on account to the guardian or conservator for the services rendered by those persons during the period covered by each payment.

This bill would permit the court, on petition by a guardian or conservator who is a professional fiduciary, as defined, to authorize periodic payments on account only if the guardian or conservator filed a proposed hourly fee schedule or another statement of his or her proposed compensation from the estate of the ward or conservatee for services performed with the inventory and appraisal and only after addressing all objections to the petition. The bill would also provide that the authorization for periodic payments to a guardian or conservator who is a professional fiduciary, as defined, shall terminate on a date determined by the court, but not later than the due date of the next succeeding accounting.

Vote: majority Appropriation: no Fiscal Committee: no Local Program: no

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. Section 1510 of the Probate Code is amended to read:

1510. (a) A relative or other person on behalf of the minor, or the minor if 12 years of age or older, may file a petition for the appointment of a guardian of the minor. A relative may file a petition for the appointment of a guardian under this section regardless of the relative's immigration status.

(b) The petition shall request that a guardian of the person or estate of the minor, or both, be appointed, shall specify the name and address of the proposed guardian and the name and date of birth of the proposed ward, and shall state that the appointment is necessary or convenient.

(c) The petition shall set forth, so far as is known to the petitioner, the names and addresses of all of the following:

(1) The parents of the proposed ward.

(2) The person having legal custody of the proposed ward and, if that person does not have the care of the proposed ward, the person having the care of the proposed ward.

(3) The relatives of the proposed ward within the second degree.

(4) In the case of a guardianship of the estate, the spouse of the proposed ward.

(5) Any person nominated as guardian for the proposed ward under Section 1500 or 1501.

(6) In the case of a guardianship of the person involving an Indian child, any Indian custodian and the Indian child's tribe.

(d) If the petitioner or proposed guardian is a professional fiduciary, as described in Section 2340, who is required to be licensed under the Professional Fiduciaries Act (Chapter 6 (commencing with Section 6500) of Division 3 of the Business and Professions Code), the petition shall include the following:

(1) The petitioner's or proposed guardian's proposed hourly fee schedule or another statement of his or her proposed compensation from the estate of the proposed ward for services performed as a guardian. The petitioner's or proposed guardian's provision of a proposed hourly fee schedule or another statement of his or her proposed compensation, as required by this paragraph, shall not preclude a court from later reducing the petitioner's or proposed guardian's fees or other compensation.

(2) Unless a petition for appointment of a temporary guardian that contains the statements required by this paragraph is filed together with a petition for appointment of a guardian, both of the following:

(A) A statement of the petitioner's or proposed guardian's license information.

(B) A statement explaining who engaged the petitioner or proposed guardian or how the petitioner or proposed guardian was engaged to file the petition for appointment of a guardian or to agree to accept the appointment as guardian and what prior relationship the petitioner or proposed guardian had with the proposed ward or the proposed ward's family or friends.

(e) If the proposed ward is a patient in or on leave of absence from a state institution under the jurisdiction of the State Department of State Hospitals or the State Department of Developmental Services and that fact is known to the petitioner or proposed guardian, the petition shall state that fact and name the institution.

(f) The petition shall state, so far as is known to the petitioner or proposed guardian, whether or not the proposed ward is receiving or is entitled to receive benefits from the Veterans Administration and the estimated amount of the monthly benefit payable by the Veterans Administration for the proposed ward.

(g) If the petitioner or proposed guardian has knowledge of any pending adoption, juvenile court, marriage dissolution, domestic relations, custody, or other similar proceeding affecting the proposed ward, the petition shall disclose the pending proceeding.

(h) If the petitioners or proposed guardians have accepted or intend to accept physical care or custody of the child with intent to adopt, whether formed at the time of placement or formed subsequent to placement, the petitioners or proposed guardians shall so state in the guardianship petition, whether or not an adoption petition has been filed.

(i) If the proposed ward is or becomes the subject of an adoption petition, the court shall order the guardianship petition consolidated with the adoption petition, and the consolidated case shall be heard and decided in the court in which the adoption is pending.

(j) If the proposed ward is or may be an Indian child, the petition shall state that fact.

SEC. 2. Section 1821 of the Probate Code is amended to read:

1821. (a) The petition shall request that a conservator be appointed for the person or estate, or both, shall specify the name, address, and telephone number of the proposed conservator and the name, address, and telephone number of the proposed conservatee, and state the reasons why a conservatorship is necessary. Unless the petitioner or proposed conservator is a bank or other entity authorized to conduct the business of a trust company, the petitioner or proposed conservator shall also file supplemental information as to why the appointment of a conservator is required. The supplemental information to be submitted shall include a brief statement of facts addressed to each of the following categories:

(1) The inability of the proposed conservatee to properly provide for his or her needs for physical health, food, clothing, and shelter.

(2) The location of the proposed conservatee's residence and the ability of the proposed conservatee to live in the residence while under conservatorship.

(3) Alternatives to conservatorship considered by the petitioner or proposed conservator and reasons why those alternatives are not available.

(4) Health or social services provided to the proposed conservatee during the year preceding the filing of the petition, when the petitioner or proposed conservator has information as to those services.

(5) The inability of the proposed conservatee to substantially manage his or her own financial resources, or to resist fraud or undue influence.

The facts required to address the categories set forth in paragraphs (1) to (5), inclusive, shall be set forth by the petitioner or proposed conservator if he or she has knowledge of the facts or by the declarations or affidavits of other persons having knowledge of those facts.

If any of the categories set forth in paragraphs (1) to (5), inclusive, are not applicable to the proposed conservatorship, the petitioner or proposed conservator shall so indicate and state on the supplemental information form the reasons therefor.

The Judicial Council shall develop a supplemental information form for the information required pursuant to paragraphs (1) to (5), inclusive, after consultation with individuals or organizations approved by the Judicial Council, who represent public conservators, court investigators, the State Bar, specialists with experience in performing assessments and coordinating community-based services, and legal services for the elderly and disabled.

The supplemental information form shall be separate and distinct from the form for the petition. The supplemental information shall be confidential and shall be made available only to parties, persons given notice of the petition who have requested this supplemental information or who have appeared in the proceedings,

their attorneys, and the court. The court shall have discretion at any other time to release the supplemental information to other persons if it would serve the interests of the conservatee. The clerk of the court shall make provision for limiting disclosure of the supplemental information exclusively to persons entitled thereto under this section.

(b) The petition shall set forth, so far as they are known to the petitioner or proposed conservator, the names and addresses of the spouse or domestic partner, and of the relatives of the proposed conservatee within the second degree. If no spouse or domestic partner of the proposed conservatee or relatives of the proposed conservatee within the second degree are known to the petitioner or proposed conservator, the petition shall set forth, so far as they are known to the petitioner or proposed conservator, the names and addresses of the following persons who, for the purposes of Section 1822, shall all be deemed to be relatives:

- (1) A spouse or domestic partner of a predeceased parent of a proposed conservatee.
- (2) The children of a predeceased spouse or domestic partner of a proposed conservatee.
- (3) The siblings of the proposed conservatee's parents, if any, but if none, then the natural and adoptive children of the proposed conservatee's parents' siblings.
- (4) The natural and adoptive children of the proposed conservatee's siblings.

(c) If the petitioner or proposed conservator is a professional fiduciary, as described in Section 2340, who is required to be licensed under the Professional Fiduciaries Act (Chapter 6 (commencing with Section 6500) of Division 3 of the Business and Professions Code), the petition shall include the following:

(1) The petitioner's or proposed conservator's proposed hourly fee schedule or another statement of his or her proposed compensation from the estate of the proposed conservatee for services performed as a conservator. The petitioner's or proposed conservator's provision of a proposed hourly fee schedule or another statement of his or her proposed compensation, as required by this paragraph, shall not preclude a court from later reducing the petitioner's or proposed conservator's fees or other compensation.

(2) Unless a petition for appointment of a temporary conservator that contains the statements required by this paragraph is filed together with a petition for appointment of a conservator, both of the following:

- (A) A statement of the petitioner's or proposed conservator's license information.
- (B) A statement explaining who engaged the petitioner or proposed conservator or how the petitioner or proposed conservator was engaged to file the petition for appointment of a conservator or to agree to accept the appointment as conservator and what prior relationship the petitioner or proposed conservator had with the proposed conservatee or the proposed conservatee's family or friends.

(d) If the petition is filed by a person other than the proposed conservatee, the petition shall include a declaration of due diligence showing both of the following:

- (1) Either the efforts to find the proposed conservatee's relatives or why it was not feasible to contact any of them.
- (2) Either the preferences of the proposed conservatee concerning the appointment of a conservator and the appointment of the proposed conservator or why it was not feasible to ascertain those preferences.

(e) If the petition is filed by a person other than the proposed conservatee, the petition shall state whether or not the petitioner is a creditor or debtor, or the agent of a creditor or debtor, of the proposed conservatee.

(f) If the proposed conservatee is a patient in or on leave of absence from a state institution under the jurisdiction of the State Department of State Hospitals or the State Department of Developmental Services and that fact is known to the petitioner or proposed conservator, the petition shall state that fact and name the institution.

(g) The petition shall state, so far as is known to the petitioner or proposed conservator, whether or not the proposed conservatee is receiving or is entitled to receive benefits from the Veterans Administration and the estimated amount of the monthly benefit payable by the Veterans Administration for the proposed conservatee.

(h) The petition may include an application for any order or orders authorized under this division, including, but not limited to, orders under Chapter 4 (commencing with Section 1870).

(i) The petition may include a further statement that the proposed conservatee is not willing to attend the hearing on the petition, does not wish to contest the establishment of the conservatorship, and does not object to the proposed conservator or prefer that another person act as conservator.

(j) In the case of an allegedly developmentally disabled adult, the petition shall set forth the following:

(1) The nature and degree of the alleged disability, the specific duties and powers requested by or for the limited conservator, and the limitations of civil and legal rights requested to be included in the court's order of appointment.

(2) Whether or not the proposed limited conservatee is or is alleged to be developmentally disabled.

Reports submitted pursuant to Section 416.8 of the Health and Safety Code meet the requirements of this section, and conservatorships filed pursuant to Article 7.5 (commencing with Section 416) of Part 1 of Division 1 of the Health and Safety Code are exempt from providing the supplemental information required by this section, so long as the guidelines adopted by the State Department of Developmental Services for regional centers require the same information that is required pursuant to this section.

SEC. 3. Section 2250 of the Probate Code is amended to read:

2250. (a) On or after the filing of a petition for appointment of a guardian or conservator, any person entitled to petition for appointment of the guardian or conservator may file a petition for appointment of:

(1) A temporary guardian of the person or estate, or both.

(2) A temporary conservator of the person or estate, or both.

(b) The petition shall state facts which establish good cause for appointment of the temporary guardian or temporary conservator. The court, upon that petition or other showing as it may require, may appoint a temporary guardian of the person or estate, or both, or a temporary conservator of the person or estate, or both, to serve pending the final determination of the court upon the petition for the appointment of the guardian or conservator.

(c) If the petitioner, proposed guardian, or proposed conservator is a professional fiduciary, as described in Section 2340, who is required to be licensed under the Professional Fiduciaries Act (Chapter 6 (commencing with Section 6500) of Division 3 of the Business and Professions Code), the petition for appointment of a temporary guardian or temporary conservator shall include the following:

(1) The petitioner's, proposed guardian's, or proposed conservator's proposed hourly fee schedule or another statement of his or her proposed compensation from the estate of the proposed ward or proposed conservatee for services performed as a guardian or conservator. The petitioner's, proposed guardian's, or proposed conservator's provision of a proposed hourly fee schedule or another statement of his or her proposed compensation, as required by this paragraph, shall not preclude a court from later reducing the petitioner's, proposed guardian's, or proposed conservator's fees or other compensation.

(2) Unless a petition for appointment of a guardian or conservator that contains the statements required by this paragraph is filed together with a petition for appointment of a temporary guardian or temporary conservator, both of the following:

(A) A statement of the petitioner's, proposed guardian's, or proposed conservator's registration or license information.

(B) A statement explaining who engaged the petitioner, proposed guardian, or proposed conservator or how the petitioner, proposed guardian, or proposed conservator was engaged to file the petition for appointment of a temporary guardian or temporary conservator or to agree to accept the appointment as temporary guardian or temporary conservator and what prior relationship the petitioner, proposed guardian, or proposed conservator had with the proposed ward or proposed conservatee or the proposed ward's or proposed conservatee's family or friends.

(d) If the petition is filed by a party other than the proposed conservatee, the petition shall include a declaration of due diligence showing both of the following:

(1) Either the efforts to find the proposed conservatee's relatives named in the petition for appointment of a general conservator or why it was not feasible to contact any of them.

(2) Either the preferences of the proposed conservatee concerning the appointment of a temporary conservator and the appointment of the proposed temporary conservator or why it was not feasible to ascertain those preferences.

(e) Unless the court for good cause otherwise orders, at least five court days before the hearing on the petition, notice of the hearing shall be given as follows:

(1) Notice of the hearing shall be personally delivered to the proposed ward if he or she is 12 years of age or older, to the parent or parents of the proposed ward, and to any person having a valid visitation order with the proposed ward that was effective at the time of the filing of the petition. Notice of the hearing shall not be delivered to the proposed ward if he or she is under 12 years of age. In a proceeding for temporary guardianship of the person, evidence that a custodial parent has died or become incapacitated, and that the petitioner or proposed guardian is the nominee of the custodial parent, may constitute good cause for the court to order that this notice not be delivered.

(2) Notice of the hearing shall be personally delivered to the proposed conservatee, and notice of the hearing shall be served on the persons required to be named in the petition for appointment of conservator. If the petition states that the petitioner and the proposed conservator have no prior relationship with the proposed conservatee and has not been nominated by a family member, friend, or other person with a relationship to the proposed conservatee, notice of hearing shall be served on the public guardian of the county in which the petition is filed.

(3) A copy of the petition for temporary appointment shall be served with the notice of hearing.

(f) If a temporary guardianship is granted ex parte and the hearing on the general guardianship petition is not to be held within 30 days of the granting of the temporary guardianship, the court shall set a hearing within 30 days to reconsider the temporary guardianship. Notice of the hearing for reconsideration of the temporary guardianship shall be provided pursuant to Section 1511, except that the court may for good cause shorten the time for the notice of the hearing.

(g) Visitation orders with the proposed ward granted prior to the filing of a petition for temporary guardianship shall remain in effect, unless for good cause the court orders otherwise.

(h) (1) If a temporary conservatorship is granted ex parte, and a petition to terminate the temporary conservatorship is filed more than 15 days before the first hearing on the general petition for appointment of conservator, the court shall set a hearing within 15 days of the filing of the petition for termination of the temporary conservatorship to reconsider the temporary conservatorship. Unless the court otherwise orders, notice of the hearing on the petition to terminate the temporary conservatorship shall be given at least 10 days prior to the hearing.

(2) If a petition to terminate the temporary conservatorship is filed within 15 days before the first hearing on the general petition for appointment of conservator, the court shall set the hearing at the same time that the hearing on the general petition is set. Unless the court otherwise orders, notice of the hearing on the petition to terminate the temporary conservatorship pursuant to this section shall be given at least five court days prior to the hearing.

(i) If the court suspends powers of the guardian or conservator under Section 2334 or 2654 or under any other provision of this division, the court may appoint a temporary guardian or conservator to exercise those powers until the powers are restored to the guardian or conservator or a new guardian or conservator is appointed.

(j) If for any reason a vacancy occurs in the office of guardian or conservator, the court, on a petition filed under subdivision (a) or on its own motion, may appoint a temporary guardian or conservator to exercise the powers of the guardian or conservator until a new guardian or conservator is appointed.

(k) On or before January 1, 2008, the Judicial Council shall adopt a rule of court that establishes uniform standards for good cause exceptions to the notice required by subdivision (e), limiting those exceptions to only cases when waiver of the notice is essential to protect the proposed conservatee or ward, or the estate of the proposed conservatee or ward, from substantial harm.

(l) A superior court shall not be required to perform any duties imposed pursuant to the amendments to this section enacted by Chapter 493 of the Statutes 2006 until the Legislature makes an appropriation identified for this purpose.

SEC. 4. Section 2614.7 is added to the Probate Code, to read:

2614.7. If a guardian or conservator of the person or estate, or both, is a professional fiduciary, as described in Section 2340, who is required to be licensed under the Professional Fiduciaries Act (Chapter 6 (commencing with Section 6500) of Division 3 of the Business and Professions Code), the guardian or conservator shall file, concurrently with the inventory and appraisal required by Section 2610, a proposed hourly fee schedule or another statement of his or her proposed compensation from the estate of the ward or conservatee for services performed as a guardian or conservator. The filing of a proposed hourly fee schedule or another statement of the guardian's or conservator's proposed compensation, as required by this section, shall not preclude a court from later reducing the guardian's, conservator's, or his or her attorney's fees or other compensation.

SEC. 5. Section 2614.8 is added to the Probate Code, to read:

2614.8. At any time on or after one year from the submission of an hourly fee schedule or another statement of proposed compensation under this section or under Section 1510, 1821, 2250, or 2614.7, a guardian or conservator who is a professional fiduciary may submit a new proposed hourly fee schedule or another statement of his or her proposed compensation from the estate of the proposed ward or proposed conservatee. The submittal of a new hourly fee schedule or another statement of the guardian's or conservator's proposed compensation, as authorized by this section, shall not preclude a court from later reducing the guardian's or conservator's hourly fees or other compensation, or his or her attorney's fees or other compensation.

SEC. 6. Section 2643 of the Probate Code is amended to read:

2643. (a) Except as provided in Section 2643.1, on petition by the guardian or conservator of the person or estate, or both, the court may by order authorize periodic payments on account to any one or more of the following persons for the services rendered by that person during the period covered by each payment:

- (1) The guardian of the person.
- (2) The guardian of the estate.
- (3) The conservator of the person.
- (4) The conservator of the estate.
- (5) The attorney for the guardian or conservator of the person or estate, or both.

(b) Notice of the hearing on the petition shall be given for the period and in the manner provided in Chapter 3 (commencing with Section 1460) of Part 1.

(c) The petition shall describe the services to be rendered on a periodic basis and the reason why authority to make periodic payments is requested. In fixing the amount of the periodic payment, the court shall take into account the services to be rendered on a periodic basis and the reasonable value of those services. The guardian or conservator of the estate may make the periodic payments authorized by the order only if the services described in the petition are actually rendered. The payments made pursuant to the order are subject to review by the court upon the next succeeding account of the guardian or conservator of the estate to determine that the services were actually rendered and that the amount paid on account was not unreasonable, and the court shall make an appropriate order if the court determines that the amount paid on account was either excessive or inadequate in view of the services actually rendered.

SEC. 7. Section 2643.1 is added to the Probate Code, to read:

2643.1. (a) On petition by a guardian or conservator of the person or estate, or both, who is a professional fiduciary, as described in Section 2340 and who is required to be licensed under the Professional Fiduciaries Act (Chapter 6 (commencing with Section 6500) of Division 3 of the Business and Professions Code), the court may by order authorize periodic payments on account to a person described in subdivision (a) of Section 2643 for the services rendered by that person during the period covered by each payment only if that person has filed a proposed hourly fee schedule or another statement of his or her proposed compensation from the estate of the ward or conservatee for services performed as a guardian or conservator, as required by Section 2614.7, and only after the court has addressed any objections filed pursuant to subdivision (d).

(b) The petition shall describe the services to be rendered on a periodic basis, the reason why authority to make periodic payments is requested, and a good faith estimate of the fees to be charged by the professional fiduciary from the date the petition is filed up to, and including, the date of the next succeeding account required by Section 2620 or, if the next succeeding account required by Section 2620 is due in less than one

year, a good faith estimate of the fees to be charged by the professional fiduciary from the date the petition is filed through the next succeeding 12 months, inclusive. Prior to ordering periodic payments or fixing the amount of the periodic payment, the court shall determine whether making periodic payments is in the best interest of the ward or conservatee, taking into consideration the needs of the ward or conservatee and the need to preserve and protect the estate. If the court determines that making periodic payments is not in the best interest of the ward or conservatee, the court shall deny the petition to authorize periodic payments. If the court determines that making periodic payments is in the best interest of the ward or conservatee, the court shall fix the amount of the periodic payment. In fixing the amount of the periodic payment, the court shall take into account the services to be rendered on a periodic basis and the reasonable value of those services.

(c) (1) Notice of the hearing on the petition and notice of how to file an objection to the petition shall be given for the period and in the manner provided in Chapter 3 (commencing with Section 1460) of Part 1.

(2) The notices required by paragraph (1) shall be made to the court investigator for the period and in the manner provided in Chapter 3 (commencing with Section 1460) of Part 1.

(d) (1) Any person entitled to notice under paragraph (1) of subdivision (c) may file with the court a written objection to the authorization of periodic payments on account. The court clerk shall set any objections for a hearing no fewer than 15 days after the date the objections are filed.

(2) If an objection is filed pursuant to paragraph (1), the guardian or conservator shall have the burden of establishing the necessity for and amount, if any, of periodic payments.

(e) The guardian or conservator of the estate may make the periodic payments authorized by the order only if the services described in the petition are actually rendered. The payments made pursuant to the order shall be reviewed by the court upon the next succeeding account of the guardian or conservator of the estate to determine that the services were actually rendered and that the amount paid on account was reasonable and in the best interest of the ward or conservatee, taking into consideration the needs of the ward or conservatee and the need to preserve and protect the estate. The court shall make an appropriate order reducing the guardian or conservator's compensation if the court determines that the amount paid on account was either unreasonable or not in the best interest of the ward or conservatee in view of the services actually rendered.

(f) The authorization for periodic payments granted pursuant to this section shall terminate on a date determined by the court, but not later than the due date of the next succeeding account required by Section 2620. Nothing in this section shall preclude a guardian or conservator from filing a subsequent petition to receive periodic payments pursuant to this section.



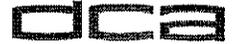
Professional Fiduciaries Bureau

Post Office Box 989005

West Sacramento, CA 95798-9005

Telephone: (916) 574-7340 FAX (916) 574-8645

Website: www.fiduciary.ca.gov



MEMORANDUM

DATE	May 29, 2014
TO	Advisory Committee Members Professional Fiduciaries Bureau
FROM	Professional Fiduciaries Bureau
SUBJECT	Agenda Item #8 – Discussion on Current Fee Structure

Public Comment:



Professional Fiduciaries Bureau
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MEMORANDUM

DATE	May 29, 2014
TO	Advisory Committee Members Professional Fiduciaries Bureau
FROM	Professional Fiduciaries Bureau
SUBJECT	Agenda Item #10 – Ethics Subcommittee Report – Aileen Federizo, Subcommittee Chair

- Status of Subcommittee

- Future Meetings

Public Comment:



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MEMORANDUM

DATE	May 29, 2014
TO	Advisory Committee Members Professional Fiduciaries Bureau
FROM	Professional Fiduciaries Bureau
SUBJECT	Agenda Item #11 – Bureau Update – Julia Ansel, Bureau Chief

- Status of the Bureau
- Fiscal Year-To-Date Statistics
Attachment #6: Statistical Graph
- E-Newsletter
- Regulations
- Sunset Review
Attachment #7: Bill to Extend the Bureau AB 2741
- Committee guidelines
Attachment #8: Role of the Chair

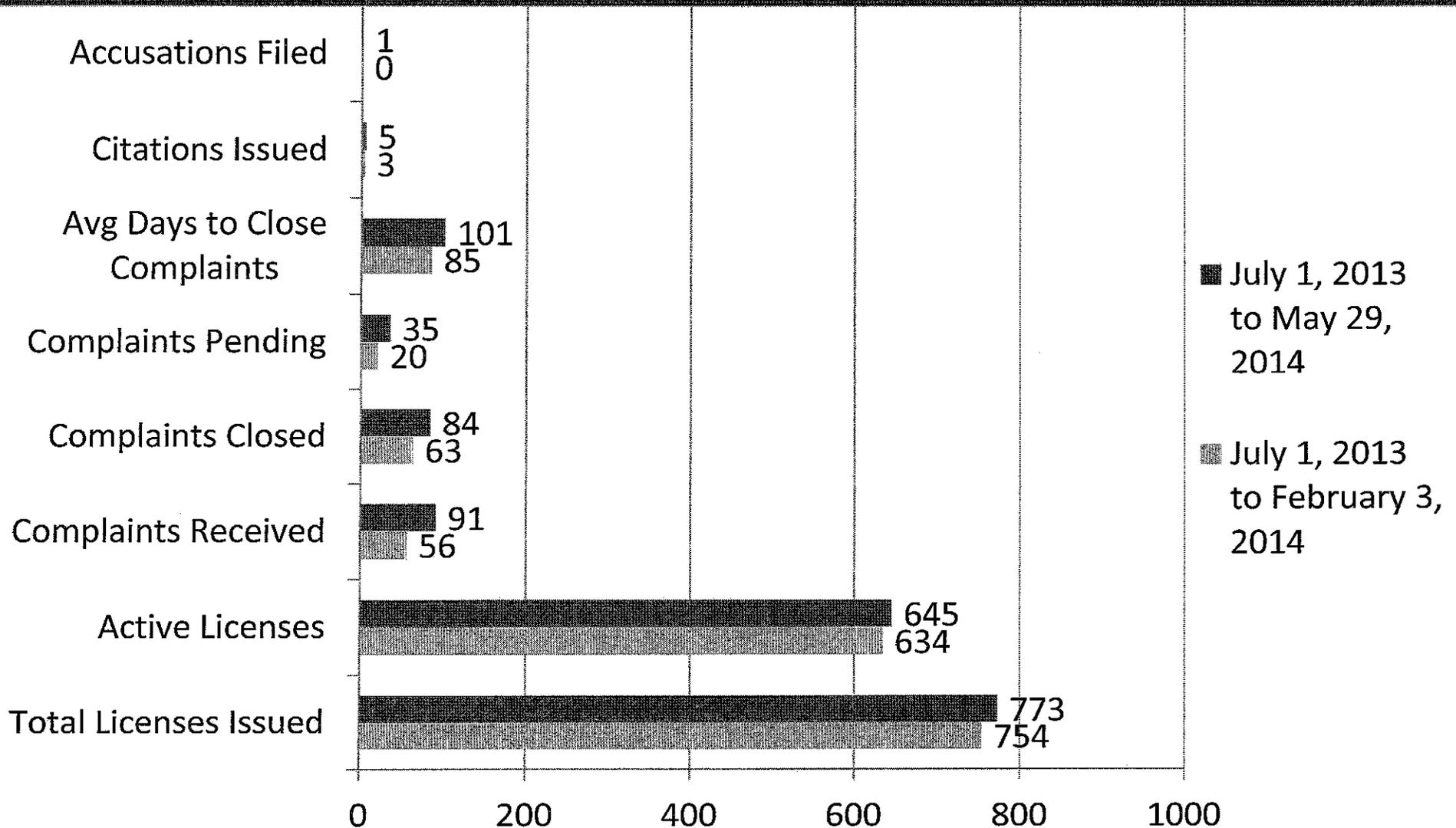
Public Comment:

Attachment #6



Bureau Fiscal Year to Date Statistics

*Date Comparison from February 3, 2014 to May 29, 2014



Attachment #7



California
LEGISLATIVE INFORMATION

AB-2741 Professional Fiduciaries Bureau. (2013-2014)

AMENDED IN ASSEMBLY APRIL 10, 2014

CALIFORNIA LEGISLATURE— 2013-2014 REGULAR SESSION

ASSEMBLY BILL

No. 2741

~~Introduced by Committee on Business, Professions and Consumer Protection (Assembly Members Bonilla (Chair), Jones (Vice Chair), Boanegra, Campos, Dickinson, Eggman, Gordon, Hagman, Holden, Meisenschein, Mullin, Skinner, Ting, and Wilk) Assembly Member~~
Bonilla
(Principal coauthor: Senator Lieu)

February 26, 2014

An act to amend Section 6510 of the Business and Professions Code, relating to the Professional **Fiduciaries** Bureau.

LEGISLATIVE COUNSEL'S DIGEST

AB 2741, as amended, ~~Committee on Business, Professions and Consumer Protection~~ **Bonilla**. Professional **Fiduciaries** Bureau.

Existing law establishes the Professional **Fiduciaries** Bureau, within the Department of Consumer Affairs, and requires the bureau to license and regulate professional **fiduciaries**. Under existing law, the provisions establishing the bureau are in effect only until January 1, 2015, and upon repeal of those provisions the bureau will be subject to review by the appropriate policy committees of the Legislature.

This bill would extend those provisions until January 1, 2019.

Vote: majority Appropriation: no Fiscal Committee: yes Local Program: no

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. Section 6510 of the Business and Professions Code is amended to read:

6510. (a) There is within the jurisdiction of the department the Professional **Fiduciaries** Bureau. The bureau is under the supervision and control of the director. The duty of enforcing and administering this chapter is vested in the chief of the bureau, who is responsible to the director. Every power granted or duty imposed upon the director under this chapter may be exercised or performed in the name of the director by a deputy director or by the chief, subject to conditions and limitations as the director may prescribe.

(b) The Governor shall appoint, subject to confirmation by the Senate, the chief of the bureau, at a salary to be fixed and determined by the director with the approval of the Director of Finance. The chief shall serve under the direction and supervision of the director and at the pleasure of the Governor.

(c) (1) This section shall remain in effect only until January 1, 2019, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2019, deletes or extends that date.

(2) Notwithstanding any other provision of law, the repeal of this section renders the bureau subject to review by the appropriate policy committees of the Legislature.

(3) Notwithstanding any other ~~provision~~ of law, upon the repeal of this section, the responsibilities and jurisdiction of the bureau shall be transferred to the Professional **Fiduciaries** Advisory Committee, as provided by Section 6511.

Attachment #8

The Role of the Chair

While all members of the body should know and understand the rules of parliamentary procedure, it is the Chair of the body who is charged with applying the rules in the conduct of the meeting. The Chair should be well versed in those rules. The Chair, for all intents and purposes, makes the final ruling on the rules every time the Chair states an action.

Since the Chair runs the conduct of the meeting, and should be the last to speak at the discussion and debate stage, and the Chair should not make or second a motion unless the Chair is convinced that no other member of the body will do so at that point in time.

The Three Basic Motions

There are three motions that are the most common and recur often at meetings:

The basic motion. The basic motion is the one that puts forward a decision for the body's consideration. A basic motion might be: "*I move that we create a 5-member committee to plan and put on our annual fundraiser.*"

The motion to amend. If a member wants to change a basic motion that is before the body, they would move to amend it. A motion to amend might be: "*I move that we amend the motion to have a 10-member committee.*" A motion to amend takes the basic motion which is before the body and seeks to change it in some way.

The substitute motion. If a member wants to completely do away with the basic motion that is before the body, and put a new motion before the body, they would move a substitute motion. A substitute motion might be: "*I move a substitute motion that we cancel the annual fundraiser this year.*"

"Motions to amend" and "substitute motions" are often confused, but they are different, and their effect (if passed) is quite different. A motion to amend seeks to retain the basic motion on the floor, but modify it in some way. A substitute motion seeks to throw out the basic motion on the floor, and substitute a new and different motion for it. The decision as to whether a motion is really a "motion to amend" or a "substitute motion" is left to the chair. So that if a member makes what that member calls a "motion to amend", but the Chair determines that it is really a "substitute motion", then the Chair's designation governs.

Motions in General

It is generally best to have a motion before the body prior to commencing discussion of an agenda item. This helps the body focus. Motions are made in a simple two-step process.

First, the Chair should recognize the member of the body. Second, the member of the body makes a motion by preceding the member's desired approach with the words: "I move . . ." So, a typical motion might be: "*I move that we give 10-day's notice in the future for all our meetings.*"

The Chair usually initiates the motion by either (1) Inviting the members of the body to make a motion. "*A motion at this time would be in order.*" (2) Suggesting a motion to the members of the body. "*A motion would be in order that we give 10-day's notice in the future for all our meetings.*" (3) Making the motion.

The Basic Format for an Agenda Item Discussion

Meetings are controlled by the noticed agenda. The agenda constitutes the board/bureau's body's outline for the meeting. Each agenda item can be handled by the Chair in the following basic format:

1 The Chair should clearly announce the agenda item number. The chair should clearly state what the agenda item subject is. The Chair should then announce the format (which follows) that will be followed in considering the agenda item.

2 The Chair should invite the appropriate person or persons to report on the item. The appropriate person or persons may be the Chair, a member of the body, a staff person, or a committee/subcommittee chair charged with providing input on the agenda item. The Chair should inquire if the presenter has any recommendations to be considered

3 The Chair should ask members of the body if they have any technical questions of clarification. At this point, members of the body may ask clarifying questions to the person or persons who reported on the item, and that person or persons should be given time to respond.

4 The Chair must allow public comments. If the Chair offered public comment on agenda items at the beginning of the meeting, then not required to ask again after agenda items.

5 The Chair should invite a motion. The Chair should announce the name of the member of the body who makes the motion.

6 The Chair should determine if any member of the body wishes to second the motion, and announce the name of the member of the body who seconds the motion. (It is normally good practice for a motion to require a second before proceeding with it, to ensure that it is not just one member of the body who is interested in a particular approach. However, a second is not an absolute requirement, and the Chair can proceed with consideration and vote on a motion even when there is no second.)

7 If the motion is made and seconded, the Chair should make sure everyone understands the motion. This is done in one of three ways: (1) The Chair can ask the maker of the motion to repeat it. (2) The Chair can repeat the motion. (3) The Chair can ask the secretary or the clerk of the body to repeat the motion.

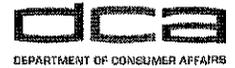
8 The Chair should invite discussion of the motion by the body. If there is no desired discussion, or after the discussion has ended, the Chair should announce that the body will vote on the motion. If there has been no discussion or very brief discussion, then the vote on the motion should proceed immediately and there is no need to repeat the motion. If there has been substantial discussion, then it is normally best to make sure everyone understands the motion by repeating it.

9 The Chair takes a vote. Simply asking for the "ayes", and then asking for the "nays" AND "abstains". Usually a simple majority (as defined in law or the rules of the body as delineated later in these rules) determines whether the motion passes or is defeated.

10 The Chair should announce the result of the vote and should announce what action (if any) the body has taken. In announcing the result, the Chair can indicate the names of the members of the body, if any, who voted in the minority on the motion. This announcement might take the following form: *"The motion passes by a vote of 3-2, with Smith and Jones dissenting. We have passed the motion requiring 10 days notice for all future meetings of this body."*



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MEMORANDUM

DATE	May 29, 2014
TO	Advisory Committee Members Professional Fiduciaries Bureau
FROM	Professional Fiduciaries Bureau
SUBJECT	Agenda Item #12 – Complaint and Enforcement Process – Dave Thornton

Public Comment:



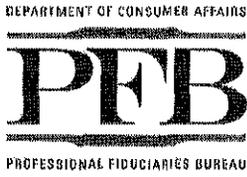
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MEMORANDUM

DATE	May 29, 2014
TO	Advisory Committee Members Professional Fiduciaries Bureau
FROM	Professional Fiduciaries Bureau
SUBJECT	Agenda Item #13 – Future Agenda Items

Public Comment:



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MEMORANDUM

DATE	May 29, 2014
TO	Advisory Committee Members Professional Fiduciaries Bureau
FROM	Professional Fiduciaries Bureau
SUBJECT	Agenda Item #15 – Public Comment on Items Not on the Agenda (See “ Note ” below)

Note: The Professional Fiduciaries Bureaus 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.



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MEMORANDUM

DATE	May 29, 2014
TO	Advisory Committee Members Professional Fiduciaries Bureau
FROM	Professional Fiduciaries Bureau
SUBJECT	Agenda Item #16 – Adjournment