

**Professional Fiduciaries Bureau
Advisory Committee Meeting
January 19, 2010**

Department of Consumer Affairs
Main Hearing Room, S-102
1625 N. Market Blvd.
Sacramento, CA 95834

Committee Members Present

Lisa Berg, CLPF
Sharon O'Neill, Supervising Probate Court Investigator
Clark Parker, Public Member
Dan Stubbs, CLPF

Committee Members Absent

Cynthia Morrow, Public Member

Staff Present

Rick Wallinder, Acting Bureau Chief
Angela Bigelow, Program Analyst

Guests Present

G.V. Ayers, Senate BPED	Jackie Miller, PFAC Executive Director
Suk Boyd, DCA Budgets	Greg Santiago, DCA Legislative & Policy Review
Sandra Carey, PFAC Advocate	Stella Shvil, PFAC President
James C. Counts II, CPA	Brian Stiger, DCA Director
Cheryl Gonzales, PFAC	Jeff Toney, DCA Legislative & Policy Review
Kim Kirchmeyer, DCA Executive Office	Bill Young, DCA Executive Office

I. Call to Order

Acting Bureau Chief Rick Wallinder called the meeting to order at 10:00 a.m.

II. Introductions

Those in attendance introduced themselves. Guest that arrived after the meeting was called to order, introduced themselves as they arrived.

III. Swearing in of new advisory committee member

Acting Bureau Chief Wallinder administered the "Oath of Office" to new public member Clark Parker.

IV. Review Program Update Memo

Acting Bureau Chief Wallinder explained how a program's revenue supports a budget for staff and program activities using the Medical Board, Dental Board, Physician Assistant Committee, and Professional Fiduciaries Bureau (PFB).

Wallinder added that the Department and Professional Fiduciary Bureau (PFB) staff is very dedicated to making this program work.

He then introduced Bill Young, Chief Deputy Director, and Kim Kirchmeyer, Deputy Director Board and Bureau Relations.

V. Discussion of Possible Recommendation to Program

Mr. Wallinder explained that he did not list options in his memo to advisory committee members so as not to limit discussion.

- Lisa Berg suggested PFB be merged with Board of Accountancy (BOA).

James C. Counts II, CPA, said that he opposed this suggestion as a Certified Public Accountant (CPA) not representing the Board of Accountancy (BOA). He said that he was concerned that this would mean California Licensed Professional Fiduciaries (CLPF) would be on the BOA board and be able to direct the activities of CPA's.

Stella Shvil commented that CLPF would not be directing the activities of CPA's. She compared this type of merger to the Bureau of Naturopathic Medicine (BNM) merging with the Osteopathic Medical Board. Ms. Shvil said that she felt CLPF would be most aligned with BOA and would actually enhance the CPA profession.

Jackie Miller spoke of a hearing last year when this option was broached and was opposed by the CPA's. She also compared the licensee base for BNM noting that it has fewer than 400 licensees after 3 years in existence. She said that she felt that the number of PFB licensees will grow from the current 400 licenses noting that there are 100 pending applications and the PFB is receiving approximately 10 new applications per month.

Mr. Wallinder informed members and guests that all of the 39 DCA Boards, Bureaus, and Programs are self-supporting and do not receive any money from the general fund.

- Clark Parker suggested a multi-step process while working through the education/experience process. His suggestion included collecting fees throughout the multi-step process. He also suggested using fines and citations to bring in more revenue.

Sandra Carey suggested not allowing additional exemptions such as enrolled agents. She noted enrolled agents are they are still pushing legislation for exemption from State licensing requirements.

- Stella Shvil suggested increasing the number of licensees by forming a group or consortium to develop ideas to find ways to bring in more licensees. She added that the Professional Fiduciaries Association of California (PFAC) would be willing to partner with PFB. Meetings could be held throughout the state at informational venues to community and information shared with CPA's or courts. She added that the National Guardian Association (NGA) is willing to participate.

Mr. Wallinder stated that PFB information does go to DCA outreach events even if PFB is not able to attend.

Ms. Shvil added that for some CLPF's it takes several years before they get a paycheck and this is a growing profession due to baby boomer era and outreach is needed to capture licensees. She said that she also felt that the bureau is still quite young and not had a chance.

- James C. Counts II wanted to know how many licensees are needed to have the number of employees requested. What is the ceiling population of licensees for this profession?
Mr. Counts noted that that some CPA's do trusts but not other fiduciary work and have no desire to. He suggested that there may be a potential to split the license e.g., Trustee only, Conservator only, or Full license.

He also suggested the possibility of a learner's (trainee) permit that allows an individual to work under certain conditions while qualifying for the full license. The person could work much like an apprenticeship.

He then asked if there are enough individuals who can be licensed to cover the staff and can we survive as a bureau on our own?

Wallinder asked Stella where she sees this topping out. She said that she was not sure. She noted that there were 1200 registrants on Department of Justice (DOJ) list. Mr. Wallinder commented that this was a flawed list. Mr. Wallinder recounted that an LA Times article stated that there were 500 fiduciaries and the actual number of licensees is at 400.

G.V. Ayers entered and Mr. Wallinder introduced him.

Cheryl Gonzales, an aspiring fiduciary, was also introduced from the audience.

A point is made that all board, bureau, and programs do not start at their licensee ceiling. Mr. Wallinder agreed but added that each program is always self-supporting.

- Sandra Carey asked how the budget is allocated to perform support required. Mr. Wallinder introduced Chief Deputy Director Bill Young and Department of Consumer Affairs Budget Analyst Suk Boyd.

Mr. Young stated that licensing fees collected are used to fund operations in personnel services and operating expense and equipment. Every dollar is only used for those purposes.

Suk Boyd said that \$357,000 for the current year covers 2 staff people (SSA and Chief-vacant). She added that a Special fund loan has to be paid next year and will be repaid with savings of vacant chief position \$250,000. Wallinder clarifies this is the second loan. Mr. Young notes that loans are used as start up money for new programs until fees start coming in.

Ms. Boyd explains that an initial \$1 million loan was repaid in fiscal year 2008/09. She added that to stay solvent, the Bureau had to take a second loan which is due 2010. Mr. Counts asked if payback of this loan brings the program up to date.

Mr. Counts asked that after this fiscal year, would the program need \$357,000? Ms. Boyd said the program would need about \$300,000 next year. To pay for Bureau Chief plus 3 staff, the program would need \$1million.

Mr. Wallinder asked if this would include auditing staff. Ms. Boyd said no, the budget includes \$50,000 for enforcement. She added that the licensing population would need to double to get to \$1million. Mr. Counts noted that the number of licensees would not increase all at once, what about incremental changes? Mr. Wallinder said he would be glad to share a detailed budget at a later date once prepared. He added that he takes the budget very seriously and has to answer to every penny.

- Stella Shvil stated that the BNM fees are \$800 bi-annually. She asked if the cost for enforcement for PFB is more. How are monies used from the \$700 annual fee?
- Mr. Counts said that it looks like to make the program work, licensing fees would need to increase by 2/3 which will not be acceptable to the profession based on current 400 licensee just to add 1 staff. He noted that to grow, the program has to change to add more licensees.

Mr. Wallinder then introduced Department of Consumer Affairs Director Brian Stiger.

Director Stiger said that extends his support for work being done. He said that he was very aware of the program's situation and was going to do what we can to get this resolved.

- Ms. Shvil requested that PFB assist in increasing the number of licensed fiduciaries by contacting attorneys. She noted that individuals are drafting private trust agreements and the attorneys have a duty to make sure the fiduciaries are licensed. She added that banks are another point of contact as fiduciaries may hold more than one account in a bank. Counts another fix might be to see about getting authorization from Franchise Tax Board (FTB) to see if they collect info on who is signing 541 tax forms and then cross-check with our database.
- Mr. Ayers noted that he was instrumental in drafting the legislation. He stated that trying to changes any of the exemptions from licensure is problematic. He noted that that the argument that we now want this group because we need their money will not work with legislature. He informed members that it has to be shown that there has been or will be a great risk for consumer harm. He emphasized that he is concerned there is not enough enforcement budget and one big case would break the budget.
- Mr. Ayers suggested the possibility of a registration or private certification. He said that he is aware PFAC is against this but it needs to be a consideration. He cited examples of tax preparers, interior designer, massage therapist as categories of professionals that are not licensed but are registered or privately certified.

Sandra Carey said that this approach was not a viable solution.

Mr. Wallinder reminded everyone that we are looking for options and do not plan to find a solution today.

Jackie Miller said that CLPF's handle large amounts of money and are not on the same plane as massage therapists or interior designers. The rationale for establishing the bureau was valid and needed. Expanding is the only way to make it viable.

Shvil concurs and says the profession has fought for years to get E&O insurance and without licensure, fiduciaries probably could not be insured. She pointed out that the law also does not include executors and representative payees.

- Stubbs said that everyone needs to think outside the box and think about possible internships with the colleges

Mr. Wallinder then introduced DCA legal counsel Gary Duke.

- Cheryl Gonzales shared her personal challenges of trying to become a CLPF. She said that she thought the law needs to be changed to lower the education/experience requirements because when someone who wants to become a fiduciary works with a fiduciary, they get much more experience.
- Gary Duke informed members that the number of licensees is small. He concurred that one case could bankrupt the Bureau. He added that these types of cases and their expenses are unexpected and there are already many bills from the AG's office.

VI. Public Comments on Items not on agenda

- A comment was presented noting that it is exciting to see the LA Times article and that it was good that it was seen that licensure was needed. They expressed hope that the number of licensee will increase with time. To not have fiduciaries licensed will be critical for the baby boomer era. Getting information out there again will help to increase licensure that this is a great profession. CLPF are turning clients away.

VII. Adjournment

Meeting was adjourned at 11:57 a.m.