



**Professional Fiduciaries Bureau**  
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**Professional Fiduciaries Bureau  
Workshop  
April 21, 2011  
Department of Consumer Affairs  
Lake Tahoe Room, 1<sup>st</sup> Floor  
2005 Evergreen Street  
Sacramento, CA 95815**

**Committee Members Present**

Daniel Stubbs, CLPF- Chair  
Sharon O'Neill, Supervising Probate Court Investigator- Vice Chair  
Lisa Berg, CLPF  
Donna Estacio, Public Member

**Committee Members Absent**

Clark Parker, Public Member

**Staff Present**

Gil DeLuna, Acting Bureau Chief  
Angela Bigelow, Program Analyst  
Gary Duke, Department of Consumer Affairs Legal Counsel  
Tom Langtry, Analyst

**Guests Present**

James C. Counts II, CPA  
Stella Shvil, PFAC President  
Loretta L. Hefner, PFAC Member

Called to order at 1:30p.m. by Daniel Stubbs, Chair

Loretta L. Hefner introduced herself as a PFAC member and fiduciary. Lori has provided a handout and she is a former certified records manager and certified archivist.

1) Advertising – Gil DeLuna

Advertising draft of regulations 4406(f) "Advertising," includes, but is not limited to the following: any card, contract proposal, sign billboard, lettering on vehicles registered in this or any other state, brochure, pamphlet, circular, newspaper, magazine, airwave or any electronic transmission, and any form of directory under any listing denoting, "professional fiduciary," "conservator," "guardian," "trustee," "agent under durable power of attorney," or any word or words of a similar import or meaning requesting any work for which a license is required by the Professional Fiduciaries Act (the Act).

4485(a) All Professional Fiduciaries licensed by the bureau to practice in the State of California shall be required to display a current, valid license number when advertising their services.

(b) License numbers shall be displayed prominently and in a way that is clearly legible relative to the size and type of advertising medium being utilized. The font size and style shall be clear, legible, and not obscured by graphics or color schemes.

(c) License numbers shall be displayed in the format, "PF" followed by the individual license number issued by the Bureau to the professional fiduciary whose services are being advertised.

(d) License numbers must be current, valid, and verifiable on the license verification page of the Bureau's web site.

(e) All advertisements must contain the following language, displayed in a way that is clearly legible relative to the size and type of advertising medium being utilized, using a font size and style that is clear, legible, and not obscured by graphics, or color schemes: "Professional Fiduciaries are regulated by the Professional Fiduciaries Bureau, [www.fiduciary.ca.gov](http://www.fiduciary.ca.gov)."

This is a draft and the process will be to develop sor and go through approval process doing a fiscal impact statement and then start the regulatory process.

Berg likes the notation to prominent. Duke says this is pretty common protections that most other Boards and Bureaus have already in place. Counts suggested also requiring sign in professional fiduciary lobby with license number. Shvil many professional fiduciary work out of their home and do not have an office. Mr. DeLuna stated the Bureau would look into adding that.

2) Record keeping and retention of records –

The only provision in law is Business and Professions Section 6560. Lori presented her issue paper to the Committee Members and audience taking questions and comments throughout the presentation. Lori's paper includes the rules and laws of doing business.

Mr. DeLuna would like to know what to look for (common documents), if he were to walk into a fiduciaries' office?

Ms. Hefner stated on page 10 and 11, the largest portion would be case files, PFAC file, bond files. All would be found in paper and electronic files. This page has the common records you would find in an office.

Mr. DeLuna asked how the disposition time frames are chosen?

Ms. Hefner stated some considerations are the administrative value, fiscal value, audit value, and the state records committee. One piece would be if it is mandated by law.

Mr. Counts commented he feels the time frame for disposition on some of these items is too short.

Ms. Hefner stated there will be working sessions in the future at a PFAC conference to make these more accurate to.

Mr. DeLuna commented he is concerned about the security of records.

Ms. Hefner stated once this is gone into deeper at the PFAC meeting, we will find that some of this will fall under HIPPA and will change some of the document.

Ms. O'Neill stated as a probate investigator, the fiduciary provides documents to the court and much of the personal information is redacted.

Mr. Stubbs stated a fiduciary does have to provide information to the bond company. The bond company selects the files they will audit. Social Security comes in to see Rep Payee files.

Ms. Shvil stated workers comp comes out to audit employee records.

Ms. Berg stated the VA also comes out to audit records. They usually want to see the case file with exception of attorney client privilege.

Mr. Stubbs commented you have to be careful what is written and retained in the file as it may be subject to subpoena at a later date.

Mr. Stubbs commented he builds in a 15 minute per month, per client to keep files in audit ready condition.

Ms. O'Neill asked how security is handled when the fiduciary works out of the home?

Ms. Shvil stated she has a designated room with locked cabinets and password protected computer files. But with many new fiduciaries, thinks there is a need for training on the issue of security at a home office.

Mr. DeLuna commented that many professionals are using encryption and he feels that this should be looked into as a requirement.

Ms. Berg commented that when taking over a new client, she notifies the credit bureaus not to extend new credit. If credit is extended the fiduciary is not responsible for payment. Also, the court can come back for up to 3 years regarding an accounting, but keeping records for 30 years would be costly for the fiduciary.

Mr. Stubbs asked on the timelines what impact does an allegation of fraud have?

Ms. Hefner stated on page 10 and 11 "Records Retention Schedules are suspended".

Ms. Berg commented you should retain birth and death records forever as you can no longer go out and get those.

Mr. DeLuna referred to an attachment of bank retention records which is similar to the time frames Ms. Hefner has presented.

The workshop was adjourned at 2:35p.m.