



**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](http://www.fiduciary.ca.gov)



**Professional Fiduciaries Bureau  
Advisory Committee Meeting  
August 27, 2014**

**Department of Consumer Affairs - HQ1  
1625 N. Market Boulevard  
Sacramento, CA 95834**

Committee Members Present

Aileen Federizo  
Prescott Cole  
Kathleen Thomson  
Diana Amaya  
Hang Le To

Committee Members Absent

Marguerite Lorenz, Chair  
Barbara de Vries, Vice Chair

1. Call to Order - Ms. Federizo called the meeting to order at 10:00 a.m.
2. Roll Call - Ms. Ansel called roll and there were five members present, two members absent and a quorum was established. Ms. Federizo chaired the meeting in the absence of the Chair and Vice Chair.
3. Introductions – Ms. Ansel introduced Professional Fiduciaries Bureau (Bureau) staff. Ms. Ansel reminded the Advisory Committee Members (Members) of the mission statement and that there would be a chance for public comment after each agenda item. The Members introduced themselves.
4. Approval of the Advisory Committee Meeting Minutes from May 29, 2014 – Mr. Cole requested the minutes be amended to include more of the discussion the Continuing Education (CE) audit. Ms. To made a motion to approve the minutes with changes, Mr. Cole seconded the motion and all were in favor to approve with changes.
5. Updates from the Director's Office – Ms. Corrine Fishman reported the Department of Consumer Affairs (DCA) said a sad goodbye to former Director, Denise Brown, but is excited to announce the Governor has appointed Awet Kidane as Director and Tracy Rhine as Chief Deputy Director. Both were sworn in on July 3, 2014 and it has been a smooth transition.
6. Budget Report – Ms. Cynthia Dynes, Budget Manager gave an overview of the expenditures and revenue for last fiscal year 12/13. The budget was \$440,000 and the expenditures were \$422,000. The Bureau reverted \$18,000 which is 4% and this is a typical and acceptable amount.

Preview of Fiscal Year 14/15 expenditures – there are changes that are out of DCA control such as statewide pro-rata which was \$14,000 for the Bureau. This includes adjustments for compensation and retirement. There was a BreEZe augmentation of \$1,000 and the contract costs will be paid by the Bureau when the Bureau goes live. Equipment needs were \$3,000. Ms. Ansel commented the additional staff member and Attorney General (AG) costs for enforcement is the largest portion of the increase in budget. The fund condition is a snapshot of the budget at a point in time and not the cash on hand on a particular day. There is a prior year adjustment which is typically for expenditures after the fact for Department of General Services or Department of Finance and go up to two Fiscal Years prior. This year the adjustment was for \$4,000. The budget for revenue of \$595,000 has been adjusted to \$501,000 and the Bureau will be working with the Budget office on revenue and to get a better number. Mr. Cole asked since the analysis of the fund currently shows by Fiscal Year 17/18 there will only be a reserve of 1.1 months and the suggested reserve is 3 months, should the Bureau start talking about raising fees? Ms. Ansel answered to keep in mind this changes all the time and she is not concerned at this time. Ms. Dynes stated the Budget office is also looking into the pro-rata for the Bureau and reducing this expenditure in the coming years. Ms. Scott stated for the record that fees can be changed by the Bureau through regulations.

Public Comment: Mr. Jerry Desmond Jr. stated the Professional Fiduciaries Association of California (PFAC) take a position that the licensing population needs to be increased and the fee levels are already high. PFAC is also concerned with the percentage of pro-rata paid for DCA services and is happy it will be reviewed.

7. Legislative Update – Mr. Scott Allen updated the Members on seven bills being tracked by DCA.
  - AB 1571 authored by Eggman is about Residential Care facilities for the Elderly: licensing and regulation. This bill is being held on the Senate Appropriations Suspense file and is now a two year bill. No action can be taken on this bill this year.
  - AB 1859 authored by Maienschein is about Professional Fiduciaries: Professional Corporations. This is also a two year bill and no action can be taken this year. This bill is sponsored by PFAC and is being tracked by DCA.
  - AB 2024 authored by Bonilla is about Professional Fiduciaries designation as retired or cancelled licenses. This bill was sent to Enrollment on August 19, 2014.
  - AB 2034 authored by Gatto is to create a legal avenue for children of dependent adults who are being isolated to access their parent. This bill has been amended eight times and is waiting vote on the Senate Floor. DCA is tracking this bill.

- AB 2171 authored by Wieckowski is about Residential Care Facilities for the Elderly. DCA is not tracking this bill. The bill would establish a bill of rights for residents and the bill is on the Assembly Floor awaiting vote.
- AB 2741 authored by Bonilla is the sunset extension of the Bureau until January 1, 2019. This bill was sent to enrollment on August 20, 2014 and should be presented to the Governor next week.
- SB 940 authored by Jackson is the California Conservatorship Jurisdiction Act and would help to resolve issues of jurisdiction of conservatorships between states. The bill has been enrolled and presented to the Governor on August 18, 2014.

Mr. Cole stated the Wieckowski bill now stands for resident's rights and private cause of actions was struck from the bill. Ms. Amaya asked why AB 1571 was in suspense and Mr. Allen answered probably due to high cost for implementation and this was verified by Mr. Cole.

Pubic Comment: Mr. Desmond Jr. stated PFACs position on AB 2024 is that it is a positive change, PFAC is in support of AB 2741 to extend the Bureau, PFAC is in support of SB940, and AB 1859 was sponsored by PFAC to establish Fiduciary Corporation be licensed. PFAC asked Maienschein not to move forward as the bill was opposed by California Advocates for Nursing Home Reform (CANHR). He also asked the Bureau to be mindful that the report from the CE audit played a part in this opposition. Mr. Cole asked the record reflect that he did not represent himself as an Advisory Committee Member in this opposition but rather a representative of CANHR. Ms. Federizo asked if the Bureau can support legislation and Mr. Scott answered no and that this would be discussed in the next agenda item.

8. Discussion on Committee Member Responsibilities and Guidelines – Ms. Scott stated that all Members are required to take Board Member Orientation Training (BMOT) within one year of being appointed to the Committee and if anyone has not yet taken the training to speak with Ms. Ansel. DCA is overseen by the Business, Consumer Services and Housing Agency. The DCA Director is appointed by the Governor and the Director oversees the functions of the Boards and Bureaus. There are 25 Boards, 9 Bureaus, 4 Committees, 2 Programs, and 1 Commission with the DCA. These offices license 100 businesses and 200 professional license types. The Business and Professions Code regulates these offices and the Director has the power and duty to follow and execute these laws. The Bureau is required to follow and execute these laws. The section for the Bureau is referred to as the Professional Fiduciaries Act (ACT) and starts in section 6500. BMOT caters more toward Board Members and not Advisory Committee Members. Both are created by legislature and the statute determines the number of meetings required per year.

Boards are created to establish policy, adopt laws, make disciplinary decisions for licensees, sponsor legislation, and take position on legislation, and hiring and firing of executive officers. The executive officers report to the Board, implement policy, direct and manage staff and day-to-day operations of the Board, and monitoring the budget.

The distinction between a Board and a Bureau is the Bureau's Chief makes the decisions not the Committee Members. The Chief does this under the direction of the Director.

The ACT specifically creates the Advisory Committee and has delegated certain functions to the Members. The Members are to examine functions and policies and make recommendations to the Bureau on issues that are important to the DCA Director and Bureau Chief and are additionally charged with making recommendations on matters related to Professional Fiduciaries and assistance to and as requested by the Bureau Chief in regard to duties and responsibilities of the Committee, Bureau, and licensees. There are mandatory duties and permissive powers. Mandatory duties are specifically stated and must be done for protection of the public. Examples of mandatory duties are: enforce the ACT, protect the public, administer licenses, approve classes for CE and pre-licensing education, adopt a code of ethics, maintain files on licensees, establish citation system, set fees, and investigate complaints against licensees. The Bureau may call for assistance in these areas if needing a better understanding or input to effectuate duties.

Examples of permissive powers are to adopt/amend the code of ethics, investigate applicant qualifications, investigate a licensee on its own without receiving a complaint from the public, refer cases to the AG of District Attorney, suspend/revoke a license, and adopt/amend/repeal regulations. These topics may be placed on a meeting agenda for the Members to discuss and offer recommendations. Members can also recommend items be placed on an agenda if the topic is of concern or value to the Bureau.

Another area is statute and regulations the Bureau is required to establish regulations only if statutory authority is vague, broad, or confusing. There is no authority to adopt a regulation if there is no statutory authority to do so. A Board can take positions on statutory authority to protect the public a Bureau cannot. An Advisory Committee Member can make a recommendation but the Director and Chief make the decision to move forward or take a position on legislation.

Public Comment: None.

9. Education Subcommittee Report – Ms. Ansel stated that the Chair of this subcommittee was not able to attend today's meeting and this item will be tabled until the next meeting.
10. Ethics Subcommittee Report – Ms. Federizo stated the subcommittee was established to assess if some complaints and comments could be avoided if the Code of Ethics was clarified. It was determined the code is fine as is and

no future meetings are necessary. Ms. Scott said the subcommittee does not have to be disbanded but does not have to meet unless another issue arises.  
Public Comment: None.

#### 11. Bureau Update –

Status of the Bureau – Ms. Ansel introduced Sara Lopez as the Bureau’s full-time enforcement analyst.

Renewals – Ms. Ansel asked licensees that when reporting on the annual statement, please read the instructions and report only new or closed cases since your last report to the Bureau. The Bureau receives a lot of duplicates and it becomes confusing for staff and time consuming. This will hopefully be resolved with the implementation of BreEZe as the licensee will be entering their own case information on-line. Additionally, the Bureau receives many incomplete renewals and cannot renew your license if all pieces are not received.

Fiscal Year to date statistics – Ms. Ansel included a chart to help with the dissemination of this information. The chart divided the information into Fiscal Year-to-date and last Fiscal Year. The number of active licenses has decrease as some licensees have retired, are not renewing, or their renewal was incomplete. Ms. Amaya asked the average time for a renewal and Ms. Ansel answered typically a couple of weeks if all pieces are received.

Review of Continuing Education Audit – Ms. Ansel wanted to clear up any confusion from the last report of the random CE audit. There was a 5% sampling which was 30 licensees and originally 12 of the 30 did not show proof of completing their CE requirement. However, after the Bureau worked with the licensees, the final result was that only 2 of the 30 (about 7%) did not complete their requirement. One licensee was cited and fined and the other was on probation and the Bureau has sent their case to the AG Office to revoke the license. Mr. Cole asked how the random sample was done and Ms. Ansel answered our technology team pulled a random sample. Mr. Cole asked if any outreach will be done to clear up the confusion or a larger sample for the next audit and Ms. Ansel answered the Bureau has a lack of resources but may be able to increase the sampling to 10%. Mr. Cole suggested if an opportunity comes up to reach out to the other 95% of licensees, he would recommend this. Ms. Ansel stated she has spoken at all Bureau meetings, the PFAC Board Meeting, and PFAC Conference about this issue. Ms. Thomson recommended posting this information on the Bureau’s website and Ms. Ansel stated the information is in regulations and is pretty clear. Ms. Federizo asked what percentage do other Bureau’s sample for CE audits and Ms. Ansel answered she did not know but could check with some other Bureaus. Ms. Scott stated the concern seems to be licensees are not noticed properly and suggested the Bureau consider an update to the website, news blast, or an article in the newsletter.

Public Comment: Mr. Desmond Jr. stated PFAC is communicating to its members how to comply and be prepared.

Strategic Plan – This plan frames the direction of the Bureau and assist in managing priorities. The tasks are on-going and all members are contributing to accomplish the goals. This is a roadmap and wish list to introduce new ideas and make improvements. The plan is pretty aggressive the Bureau is working to achieve as many goals as possible. So far the following has been accomplished: hiring an enforcement analyst, creating a contact list of partner organizations, the addition of social media, legislation for a retired and cancelled license designation, formation of education and ethics subcommittees, and presentations from schools that offer pre-licensing and continuing education.

E-Newsletter – Thank you to everyone who contributed to the latest edition. This is the third edition and will be completed by the end of next week. It will be posted to Facebook, the website, and emailed to the listserv of approximately 750 subscribers.

Complaint/Enforcement Discussion – The Bureau receives about 100 complaints per year and all complaints are given the same review and attention upon intake. The Bureau is small but efficient. Some complaints are more significant and some are not as serious, unfounded, or not a violation of law. Some complaints the Bureau has the opportunity to inform and educate the public on the law or direct the consumer to the correct resource. The Bureau is looking for violation of law or regulation in order to take action. The Bureau then posts the action on its website as a public record. These actions can be found on the Bureau’s website under the heading “Bureau Actions”. Following are some of the actions and reasons for the action that the Bureau has taken:

Accusation examples are fraud, theft such as a licensee whose employee had been wiring money out of trust funds and another individual was not paying bills for a client which resulted in loss of money and services. Both cases were sent to the AG.

Citation and Fines were issued to licensees who did not provide information to the court, charging a client for responding to a complaint from the Bureau, not completing CE requirements, and unethical conduct.

Letter of Public Reprimand was issued for failing to pay client taxes and holding trust documents too long and one licensee signed court document stating they were licensed when they had not received a license from the Bureau.

Revocation for a licensee that was using client funds for personal use.

Petition to Revoke for a license that was on probation and was not able to satisfy the CE requirement when audited.

Probation was ordered for applicants who failed to disclose information on their application or may have had a recent bankruptcy filing which is directly related to the duties of a Professional Fiduciary.

Public Comment: None.

12. Future Agenda Items –  
Discuss ways in which the Bureau can educate the public and licensees about  
CE requirements  
All were in favor, none were opposed  
Education Subcommittee report

13. Future Meeting Dates –  
Advisory Committee            November 18, 2014  
Education Subcommittee      October 14, 2014 (tentatively)  
Ethics Subcommittee          None

14. Public Comment on Items Not on the Agenda  
None.

15. Adjournment  
The meeting was adjourned at 12:08 p.m.