



Professional Fiduciaries Bureau
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West Sacramento, CA 95798-9005
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Website: www.fiduciary.ca.gov



**Professional Fiduciaries Bureau
Advisory Committee Meeting**

**Thursday, March 29, 2018
10:00a.m. – 1:00p.m. or until conclusion**

One or more Committee Members will participate in this meeting at the teleconference sites listed below. Each teleconference location is accessible to the public and the public will be given an opportunity to address the Advisory Committee at each teleconference location. The public teleconference sites for this meeting are as follows:

**Meeting Location*:
Department of Consumer Affairs (DCA)
1747 North Market Boulevard, 1st Floor Hearing Room
Sacramento, CA 95834**

Teleconference Locations:

**Elder Well
6345 Balboa Blvd., Bldg. 1, #114
Encino, CA 91316**

**Jordan Goldstein Fiduciary Services
5 Third Street, Suite 1132
San Francisco, CA 94103**

Committee Members

Hang Le To, Chair
Kathleen Thomson, Vice Chair
Dawn Akel
Jenny Chacon
Barbara de Vries
Aileen Federizo
King Gee

AGENDA

- 1) Call to Order – Hang Le To, Chair
- 2) Roll Call & Establishment of Quorum – Angela Cuadra, Program Analyst
- 3) Advisory Committee Members, Bureau Chief, Staff and Legal Counsel Introductions

- 4) Updates from the Director's Office – DCA Executive Staff
- 5) Reading of the Professional Fiduciaries Bureau Mission Statement – Rebecca May, Bureau Chief
- 6) Discussion and Approval of the Advisory Committee Meeting Minutes from November 15, 2017
- 7) Budget Report – DCA Budget Analyst
 - Budget Overview and Update
- 8) Legislative Update – DCA Legislative Analyst
 - 2018 Legislation Related to the Bureau
 1. AB 1779 (Nazarian) Sexual orientation: change efforts.
 2. AB 3144 (Committee on Business and Professions) Professional Fiduciaries Bureau.
 3. SB 909 (Hertzberg) Uniform Trust Decanting Act.
 - 2018 Legislation Related to the Department
 1. AB 12 (Cooley) State government: administrative regulations: review.
 2. AB 77 (Fong) Regulations: effective dates and legislative review.
 3. AB 241 (Dababneh) Personal information: privacy: state and local agency breach.
 4. AB 703 (Flora) Professions and vocations: licensees: fee waiver.
 5. AB 827 (Rubio) Department of Consumer Affairs: high-skill immigrants: license information.
 6. AB 1005 (Calderon) Department of Consumer Affairs.
 7. AB 1053 (Calderon) Professions and vocations: career technical education: licensee information.
 8. AB 1631 (Salas) Professional services.
 9. SB 27 (Morrell) Professions and vocations: licensees: military service.
 10. AB 1380 (Santiago) Developmental services: regional center services – Update on the list of "Specified Convictions" related to this bill.
- 9) Bureau Updates – Rebecca May, Bureau Chief
 - Statistics regarding Licensing and Enforcement
 - Types of Attorney General Cases
 - Outreach Events
 - Sunset Review
 - Update on Occupational Analysis
 - Update on Strategic Plan
- 10) Update of Proposed Rulemakings
 - Update regarding Inactive/Retired License Proposed Regulation - Sections 4560-4580 of Article 8 of Title 16 of the California Code of Regulations
- 11) Review and Discussion of Draft Language for Client Notification Proposed Regulations
 - Client Notification Proposed Regulation - Section 4640 of Article 12 of Title 16 of the California Code of Regulations

- 12) Discussion and Possible Recommendations from Committee Members for Future Outreach Opportunities
- 13) Solicitation and Discussion of Ideas and Articles from Committee Members for the Professional Fiduciaries Bureau's E-Newsletter
- 14) Future Agenda Items
- 15) Future Meeting Dates
 - Wednesday, May 16, 2018
 - Wednesday, August 15, 2018
 - Wednesday, November 7, 2018
- 16) Public Comment on Items Not on the Agenda (See "Note" below)
- 17) Adjournment

Please note: In accordance with the Bagley-Keene Open Meeting Act, all meetings of the Board are open to the public. 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 meeting may be cancelled or changed without notice. For verification, please check the Bureau's website at <http://www.fiduciary.ca.gov> or call (916) 574-7340. The Professional Fiduciaries Bureau Advisory Committee may take action on any of the above agenda item; however, the 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. Any item may be taken out of order to accommodate speakers and/or to maintain a quorum. All times indicated are approximate. The public may take appropriate opportunities to comment on any issue before the Committee at the time the item is heard, but the Committee Chair may, at his or her discretion, apportion available time among those who wish to speak. The public may comment on issues not on the agenda, but Committee Members cannot discuss and/or take action on any issue that is not listed on the agenda.

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 Jenny Turner at (916) 574-8375, jenny.turner@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. Turner at the same address and telephone number.

*The Bureau plans to webcast this meeting on its website at www.fiduciary.ca.gov. Webcast availability cannot, however, be guaranteed due to limitations on resources or technical considerations. If you wish to participate or to have a guaranteed opportunity to observe, please plan to attend at a physical location.

OUR MISSION

To protect consumers through licensing, education, and enforcement by ensuring the competency and ethical standards of Professional Fiduciaries.

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**Professional Fiduciaries Bureau (Bureau)
Advisory Committee Meeting
Wednesday, November 15, 2017**

Meeting Minutes

Committee Members Present

- Hang Le To, Chair
- Aileen Federizo, Vice Chair (via teleconference location)
- Dawn Akel
- Barbara de Vries (via teleconference location)
- King Gee
- Kathleen Thomson

Committee Member Absent

- Jenny Chacon

Department of Consumer Affairs (DCA) Staff Present

- Rebecca May, Bureau Chief
- Angela Cuadra, Bureau Program Analyst
- Gary Duke, DCA Legal Counsel

- 1) Call to Order – Ms. To called the meeting to order at 10:04 a.m. and stated the meeting date and locations.
- 2) Roll Call & Establishment of Quorum –
Ms. Cuadra called roll. Committee members Ms. Hang Le To, Ms. Dawn Akel, Mr. King Gee, and Ms. Kathleen Thomson, were present at meeting location 1625 N. Market Blvd, Sacramento, CA 95834. Ms. Aileen Federizo was present via teleconference from teleconference location 6345 Balboa Blvd., #114, Bldg. 1, Encino, CA 91316. Ms. Barbara de Vries was present via teleconference from teleconference location 5-Third Street, Suite 1132, San Francisco, CA 94103. Ms. Jenny Chacon was absent. A quorum was established with six members present.
- 3) Introduction of New Bureau Chief –
Ms. To announced Governor Jerry Brown appointed Ms. Rebecca May on May 22, 2017 and Ms. May was sworn in by Department of Consumer Affairs (DCA) Director, Dean Grafilo on June 5, 2017.

Public Comment: None.

- 4) Advisory Committee Introductions –Committee Members introduced themselves.

Public Comment: None.

- 1
2 5) Updates from the Director's Office –
3 Mr. Patrick Le, Assistant Deputy Director of Board and Bureau Relations introduced himself. Prior
4 to joining the DCA team, Mr. Le was the Assistant Chief of External Affairs for Covered California
5 and helped implement the Affordable Care Act.
6 Additional changes to DCA staff:
7 Ms. Lally has left her position as Deputy Director of Board and Bureau Relations to join the
8 Medical Board of California.
9 Mr. Christopher Castrillo joined DCA as the Deputy Director of Board and Bureau Relations.
10 Ms. Karen Nelson is Mr. Le's counterpart as Assistant Deputy Director of Board and Bureau
11 Relations.
12 Mr. Chris Shultz joined DCA as the Chief Deputy Director.
13 Ms. Natalie Daniel joined DCA as the Deputy Director of Administration.
14
15 DCA's held its second quarterly meeting in September for Executive Officers and Chiefs to
16 maintain open dialogue between the Department and the boards and bureaus.
17
18 DCA leadership training program was launched in May of 2017. The last meeting was in October
19 and featured Senator Jerry Hill.
20
21 The prorata workgroup met in August and October to discuss potential improvements of
22 communication. Prorata is the distribution of funds from boards and bureaus to DCA
23 administrative offices.
24
25 Finally, the DCA strategic plan was released in July 2017 and is available on the DCA website on
26 the publications page.
27
28 Public Comment: None.
29
30 6) Professional Fiduciaries Bureau Mission Statement –
31 Ms. May read the Bureau's mission statement.
32
33 Public Comment: None.
34
35 7) Discussion and Possible Approval of the Advisory Committee Meeting Minutes from August 16,
36 2017 –
37 Ms. de Vries motioned to approve the minutes as written. Ms. Thomson seconded the motion. A
38 vote by roll call was made: Ms. Federizo, Ms. Akel, Ms. Thomson, Mr. Gee, Ms. de Vries, and Ms.
39 To were in favor. Ms. Chacon was absent for the vote. The motion carried with six votes.
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41 Public Comment: None.
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43 8) Budget Report –
44 Ms. Nicole Dragoo presented the fund condition and reported this is up-to-date through June 30,
45 2017. The fund condition is healthy and the months in reserve are projected to remain steady over
46 the next few years.
47 DCAs Calstars reporting system was replaced by Fiscal on July 2, 2017 and one of the
48 challenges during the migration is that DCA is not able to run expenditure reports. This issue is
49 being addressed and should be up and running soon.
50

1 Mr. Duke asked if the new system is being used statewide and Ms. Dragoo replied that DCA is in
2 the middle of the roll-out and it is expected all state departments will be on Fiscal by 2019.

3
4 Public Comment: None.

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6 9) Legislative Update –

7 Mr. Gregory Pruden, Legislative Manager, introduced himself. Mr. Alex Millington, Legislative
8 Analyst, introduced himself and presented the important legislative dates for Fall/Winter
9 2017/2018.

- 10 • 2017 Legislation Related to the Bureau –
11 So far, this year there are no bills identified that relate to the Bureau.
- 12 • 2017 Legislation Related to the Department –
- 13 1. AB 492 (Grayson) Advertising and solicitations: government documents. This bill
14 was chaptered on September 26, 2017 and is effective January 1, 2018. This bill
15 requires businesses or individuals who charge a fee for requesting public
16 documents on behalf of another to include specified information on the document
17 that is used to request the records. In addition, this bill would prohibit solicitations
18 containing deadlines or other language that implies the document is issued by a
19 state or local government agency or requires action by the consumer. This bill
20 would authorize the Attorney General or a district attorney to bring action against
21 any person who does not conform to the provisions of this bill.
- 22 • AB 1380 (Santiago) Developmental services: regional center services –
23 This bill is not directly related to the scope of the Bureau, but is being tracked due to a
24 request by the Bureau. This bill is a two-year bill as of September 1, 2017 and would have
25 required regional centers to develop a process by which all vendor contracts are reviewed
26 at least once every two years, and require the outcome of those reviews to be
27 documented in the regional center's files. It would have also required an employer to
28 submit the fingerprints of a prospective in-home respite worker to the Department of
29 Justice for a criminal background check prior to employment and would have prohibited
30 employment as in-home respite provider if an applicant has specified convictions. It would
31 have also required the Department of Developmental Services to conduct an in-depth
32 review of in-home respite provider rates, as specified, and report results to the Legislature.
- 33 • Statutory Definition of "regional center services"
34 There was a request for a definition which was answered at the last meeting. Definition
35 according to Welfare and Institutions Code (WIC) section 4704 is an agency which
36 receives state funds to provide services to individuals with disabilities.

37
38 Ms. Thomson would like to know what the specified convictions are, and Mr. Millington will
39 report at the next meeting.

40
41 Public Comment: None.

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43 10) Bureau Updates –

- 44 • Statistics –

Fiscal 2017/18 year-to-date statistics	
AG Case Initiated	1
Citations Issued	5
Complaints Received	49
Complaints Closed	56
Complaints Pending	34

Average Days to Close	217
New Licenses Issued	24
Active Licenses	734
Total Licenses Issued	1,019

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- Outreach Events –
The Bureau Department of Business Oversight Trainer Convening at Fresno City Hall on September 1, 2017 and National Consumer Protection Week Financial Fair at the Mexican Consulate in Sacramento on October 16, 2017.
Upcoming events are the Dixon Senior Resource Fair in Dixon. This event was cancelled due to fire evacuations and will be rescheduled soon. The Bureau will also attend the 23rd Annual PFAC Educational Conference in Riverside May 30 through June 2, 2018.
- Sunset Review –
The report has been reviewed by Agency and is at the Governor’s Office for review. The report will be posted on the Bureau’s website once it is approved and a notice will be sent to the interested parties list once a hearing date is scheduled.
- Number of Licensed Professional Fiduciaries by County –
This list is included in the packet.
- Client Notification of Licensure Regulation Status –
The Bureau made the decision not to proceed with this regulation as written. New language has been drafted and is in the review process. Mr. Duke stated there was confusion in the regulation because of multiple references to the Probate Code.
- Update on Status of Occupational Analysis –
Thanks to the licensees who participated in the September and October workshops. We are hoping the OA will be completed in Spring 2018.
- Updated on Status of Strategic Plan –
The Bureau is working with the DCA SOLID office and survey requests have been sent out. The responses will be used to draft the Bureau’s strategic plan.

Ms. Thomson asked the nature/allegation of the AG case which was initiated. Ms. Cuadra stated we could report back at the next meeting. Ms. Thomson stated she is happy to see the staff is able to attend outreach in southern California.

Ms. Federizo asked if the licenses issued is on pace and Ms. May replied it is on pace and will report back with a comparison at the next meeting.

Ms. Montez commented the number of active licensees has hovered around 730-750 although it is not growing, it is remaining steady.

Mr. Gee asked staff to share how the events come to the attention of the Bureau and how they are selected. Ms. Cuadra replied events come in several ways and if there are any the committee members know about, please let the Bureau know. All events go through the Bureau Chief and number of attendees and travel costs are taken into consideration.

Ms. de Vries asked if it was possible for the committee members to represent the Bureau at outreach events. Ms. May stated we could consider that option.

Ms. To asked what the Bureau will do at the conference. Ms. May answered there was a table, staff provided course for CE credit. Ms. Cuadra added the conference is a great place to meet potential licensees.

Ms. To asked why there is such a difference in the number of licensees by county. Ms. Akel made a comment that was not clear on the recording. Ms. de Vries stated this has to do with population in the area.

Public Comment: None.

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11) Discussion of the Professional Fiduciaries Code of Ethics and Possible Ways to Improve the Code –

Ms. de Vries stated the Code seems inclusive of all situations and asked why the WIC codes were included. Ms. Cuadra stated there was a request at the last meeting that the Bureau include these codes in the review of the section.

Ms. Federizo stated there are a lot of sections that say "shall" and should be changed to "may" as sometimes the court pulls in a licensee and forbids the licensee to do certain things and it is a conflict of interest. Mr. Duke asked Ms. Federizo to identify the specific sections. Ms. Federizo stated 4482(b) and (c). Ms. Thomson stated to add something to the effect of "unless a specific court order directs....."

Mr. Duke stated changing a "shall" to a "may" loosens the authority of the Bureau but he will research this.

Public Comment: None.

12) Review and Discussion of Proposed Rulemakings

- Client Notification

Ms. May stated the Bureau believes this language will be effective in meeting the requirements of statute. Mr. Duke stated this is the first draft after withdrawing the previous package and will continue to be reviewed and modified as needed. Ms. Federizo asked if the licensee could use the notice list and Mr. Duke stated that could be included in the list.

Public Comment:

Mr. Jeff Moore asked if notification of the PVP would be included. Mr. Duke asked what the PVP is and Ms. Federizo stated probate volunteer panel and it is an attorney appointed by the court. The PVP is discharged once the conservator is appointed. Ms. de Vries stated San Francisco does not have a PVP, this must be different from county to county. Mr. Duke stated this would be a person on the notice list.

Mr. James Counts stated there is not a requirement for licenses which have been suspended or retired. Mr. Duke stated this is not part of the intent of the regulation. The intent of the regulation is to notify the client that the licensee is licensed.

Ms. Jordan Goldstein stated the original language extended the scope outside of the intent by notifying the probate attorney is overkill and would bombard the attorneys with paper.

Mr. Counts stated Arial font should not be required. Attorneys in California already know fiduciaries are licensed in California. This is outside the parameters of the legislative intent. The Bureau will consider this issue. Ms. Federizo concurs with Ms. Goldstein's comment.

- Inactive/Retired License Status

Business and Professions Code gives the Bureau authority to establish regulations for licensees to place their license in an inactive or retired status.

Ms. de Vries asked if you are in retired status, do you have to take the continuing education each year. Ms. May replied that you do not, but you do if you decide to come out of the retired status. Ms. Cuadra stated in a retired status you pay the application fee to designate your license as retired and do not have to do anything else unless you wish to come out of retirement.

13) Future Agenda Items
Specified convictions AB 1380

1 Nature/allegations of AG cases
2 Comparison to last year statistics

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4 Public Comment: None.

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6 14) Future Meeting Dates
7 -Wednesday, February 7, 2018
8 -Wednesday, May 16, 2018
9 -Wednesday, August 15, 2018
10 -Wednesday, November 7, 2018

11 There were no conflicts mentioned by any of the committee members.

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13 Public Comment: None.

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15 15) Election of 2018 Chair and Vice Chair –

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17 Chair position
18 Ms. de Vries nominated Ms. Federizo for the position of committee chair and Ms. Federizo
19 declined the nomination. Ms. Federizo nominated Ms. To for the position of committee chair, the
20 nomination was seconded by Ms. de Vries. A vote by roll call was made: Ms. Federizo, Ms. Akel,
21 Ms. Thomson, Mr. Gee, Ms. de Vries, and Ms. To were in favor. Ms. Chacon was absent for the
22 vote. The motion carried with six votes.

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24 Vice Chair position
25 Ms. de Vries nominated Mr. Gee for the position of committee vice chair, the nomination was
26 seconded by Ms. Federizo and Mr. Gee declined the nomination. Ms. de Vries nominated Ms.
27 Thomson for the position of committee vice chair, the nomination was seconded by Ms. Federizo.
28 A vote by roll call was made: Ms. Federizo, Ms. Akel, Ms. Thomson, Mr. Gee, Ms. de Vries, and
29 Ms. To were in favor. Ms. Chacon was absent for the vote. The motion carried with six votes.

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31 Public Comment: None.

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33 16) Public Comment on Items Not on the Agenda – None.

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35 17) Adjournment – The meeting was adjourned at 11:28 a.m.

3108 - Professional Fiduciary Fund Analysis of Fund Condition

Prepared 1.22.18

(Dollars in Thousands)

2018 Governor's Budget

	ACTUAL 2016-17	CY 2017-18	BY 2018-19
BEGINNING BALANCE	\$ 216	\$ 220	\$ 212
Prior Year Adjustments	\$ 4	\$ -	\$ -
Adjusted Beginning Balance	\$ 220	\$ 220	\$ 212
REVENUES, TRANSFERS, AND OTHER ADJUSTMENTS			
Revenues:			
4121200 Delinquent fees	\$ 2	\$ 2	\$ 2
4127400 Renewal fees	\$ 430	\$ 441	\$ 455
4129200 Other regulatory fees	\$ 2	\$ 7	\$ 10
4129400 Other regulatory licenses and permits	\$ 98	\$ 113	\$ 126
4163000 Income from surplus money investments	\$ 2	\$ 2	\$ 2
Total Revenues, Transfers, and Other Adjustments	\$ 534	\$ 565	\$ 595
Total Resources	\$ 754	\$ 785	\$ 807
EXPENDITURE AND EXPENDITURE ADJUSTMENTS			
Expenditures:			
1111 Department of Consumer Affairs Regulatory Boards, Bureaus, Divisions (State Operations)	\$ 479	\$ 538	\$ 544
8880 Financial Information System for California (State Operations)	\$ 1	\$ -	\$ -
9892 Supplemental Pension Payments (State Operations)	\$ -	\$ -	\$ 9
9900 Statewide General Administrative Expenditures (Pro Rata) (State Operations)	\$ 54	\$ 35	\$ 15
Total Expenditures and Expenditure Adjustments	\$ 534	\$ 573	\$ 568
FUND BALANCE			
Reserve for economic uncertainties	\$ 220	\$ 212	\$ 239
Months In Reserve	4.6	4.2	4.9

BUDGET REPORT
Expenditure Projection
February / FM 8

Object Description	FY 2016-17		FY 2017-18				
	Actual	Prior Year	Budget Allotment	Current Year	Percent Spent	Projections to Year End	Unencumbered Balance
	EXPENDITURES Month 13	EXPENDITURES Month 8		EXPENDITURES Month 8			
PERSONNEL SERVICES							
Salary & Wages (Staff)	110,184	83,932	108,000	78,112	72%	117,407	(9,407)
Statutory Exempt	6,818	0	77,000	62,400	81%	93,600	(16,600)
Temp Help (Seasonal)	37,258	14,017	22,000	30,391	138%	32,610	(10,610)
Temp Help (Exam Proctor)	0	0	0	0	0%	0	0
Board Member Per Diem	0	0	0	0	0%	0	0
Committee Members	2,500	1,200	0	0	0%	2,500	(2,500)
Overtime	66	0	0	0	0%	0	0
Staff Benefits	67,955	48,688	111,000	65,944	59%	95,225	15,775
TOTALS, PERSONNEL SVCS	224,781	147,837	318,000	236,847	74%	341,342	(23,342)
OPERATING EXPENSE AND EQUIPMENT							
General Expense	2,305	1,682	5,000	126	3%	2,305	2,695
Fingerprint Reports	59	0	0	0	0%	59	(59)
Minor Equipment	0	0	0	0	0%	0	0
Printing	3,843	1,339	1,000	1,126	113%	1,930	(930)
Communication	459	247	1,000	260	26%	459	541
Postage	1,190	820	2,000	1,100	55%	1,886	114
Insurance	3	0	0	0	0%	0	0
Travel In State	2,972	662	4,000	1,838	46%	2,972	1,028
Travel, Out-of-State	0	0	0	0	0%	0	0
Training	10	0	1,000	0	0%	0	1,000
Facilities Operations	39,521	38,821	32,000	39,324	123%	39,324	(7,324)
Utilities	0	0	0	0	0%	0	0
C&P Services Interdept.	0	0	3,000	0	0%	0	3,000
C&P Services - External	2,302	2,276	0	2,018	0%	5,002	(5,002)
DEPARTMENTAL SERVICES							
Office of Information Services Pro Rata	19,276	13,336	35,000	26,250	75%	35,000	0
Administration Pro Rata	37,853	24,000	41,000	30,750	75%	41,000	0
Interagency Services with OPES	100,060	0	4,000	3,000	75%	4,000	0
DOI - Special Ops Unit Pro Rata	920	664	1,000	750	75%	1,000	0
Communication Prorata	14,446	10,000	2,000	1,500	75%	2,000	0
Public Policy Review Division Pro Rata	654	664	22,000	16,500	75%	22,000	0
INTERAGENCY SERVICES:							
Information Technology	0	0	1,000	120	0%	120	880
DP Maintenance & Supplies	585	0	0	0	0%	500	(500)
EXAM EXPENSES:							
Exam Supplies	0	0	0	0	0%	0	0
Exam Freight	0	0	0	0	0%	0	0
Exam Site Rental	0	0	0	0	0%	0	0
Exam Contracts	0	0	0	0	0%	0	0
Exam Experts	0	0	0	0	0%	0	0
ENFORCEMENT:							
Attorney General	25,918	10,605	66,000	16,475	25%	26,000	40,000
Office of Admin. Hearings	2,161	286	0	165	0%	2,161	(2,161)
Court Reporter Services	0	0	0	0	0%	0	0
Evidence / Witness Fees	0	0	0	0	0%	0	0
Major Equipment	0	0	0	0	0%	0	0
TOTALS, OE&E	254,537	105,402	221,000	141,302	64%	187,718	33,282
TOTAL EXPENSES	479,318	253,239	539,000	378,149	70%	529,060	9,940
Scheduled/Unsch Reimbursements	(1,000)	0	(1,000)	0	0%	(1,000)	0
NET APPROPRIATION	478,318	253,239	538,000	378,149	70%	528,060	9,940
Surplus/(Deficit):							2%

Professional Fiduciaries Bureau March 29, 2018 Legislative Update

Important Legislative Dates –Winter/Spring 2018

- **Feb. 16 - Last day for bills to be introduced**
- Mar. 22 – Spring Recess begins
- Apr. 2 – Legislature Reconvenes from Spring Recess
- Apr. 27 – Last day for policy committees to hear and report to fiscal committees fiscal bills introduced in their house.
- May 11 – Last day for policy committees to hear and report to the floor nonfiscal bills introduced in their house
- May 18 – Last day for policy committees to meet prior to June 4
- May 25 – Last day for fiscal committees to hear and report to the floor bills introduced in their house
- June 1 – Last day for each house to pass bills introduced in that house
- June 15 – Budget bill must be passed by midnight

2017/18 Legislation Related to the Bureau

AB 1779 (Nazarian) Sexual Orientation: Change Efforts

This bill would prohibit a mental health provider from engaging in sexual orientation change efforts with a patient, regardless of age, under a conservatorship or a guardianship.

March 2018 Status: Introduced on January 4, 2018, this bill has been referred to the Assembly Committee on Business and Professions, but has not been scheduled for a hearing.

AB 3144 (Committee on Business and Professions) Professional Fiduciaries Bureau

This is the Professional Fiduciaries Bureau sunset bill. As currently written, this bill would extend the sunset date of the Bureau to January 1, 2023. A joint Senate and Assembly committee heard testimony from the Professional Fiduciaries Bureau on March 5th.

March 2018 Status: Introduced on February 16, 2018, this bill has been referred to the Assembly Committee on Business and Professions, but has not been scheduled for a further hearing.

SB 909 (Hertzberg) Uniform Trust Decanting Act

This bill would allow a fiduciary of an irrevocable trust to distribute the property of a first trust to one or more second trusts, or to modify the first trust without the consent of the beneficiaries or approval of a court, subject to certain exceptions. This bill would require notification of affected parties prior to 'decanting' and would create court authority to allow 'decanting' on application by a fiduciary, a beneficiary, or other specified parties.

March 2018 Status: Introduced on January 18, 2018, this bill has been referred to the Senate Judiciary Committee, but has not been scheduled for a hearing.

2017 Legislation Related to the Department of Consumer Affairs

Two-Year Bills

AB 12 (Cooley) State government: administrative regulations: review

This bill would require every state office, agency, department, division, board, bureau, and commission to review existing regulations and revise or repeal inconsistent, overlapping, duplicative, and outdated provisions by January 1, 2020. This bill would also require the Business, Consumer Services, and Housing Agency to submit a report to the Governor and Legislature affirming compliance with these provisions. These provisions would remain in effect only until January 1, 2021.

March 2018 Status: Failed to meet the January 20th deadline for action.

AB 77 (Fong) Regulations: effective dates and legislative review

This bill would require the Office of Administrative Law, for each major regulation it approves, to submit a copy to the Legislature for review. Additionally, this bill would provide that a regulation does not become effective if the Legislature enacts a statute to override the regulation.

March 2018 Status: Failed to meet the January 20th deadline for action.

AB 241 (Dababneh) Personal information: privacy: state and local agency breach

This bill would require any state or local agency that is the source of a data breach where an individual's personal information is compromised, or believed to be compromised, to provide identity theft prevention and mitigation services at no cost to the affected individuals for at least twelve months. The intent of this bill is to align state agency's responses following a data breach with those of businesses in the state to ensure California consumers receive identity theft and mitigation protections from both private and public entities.

March 2018 Status: Failed to meet the January 20th deadline for action.

AB 703 (Flora) Professions and vocations: licensees: fee waiver

This bill would require that each board within the Department grant a fee waiver for the application and the issuance of an initial license for an applicant who is married to, or in a domestic partnership or other legal union with, an active duty member of the Armed Force if the applicant holds a current license in the same profession or vocation in another state, district, or territory. This fee waiver would not cover renewals, additional licenses, a certificate, a registration, or a permit associated with the license, or for the application of an examination.

March 2018 Status: Failed to meet its January deadline for action.

AB 827 (Rubio) Department of Consumer Affairs: high-skill immigrants: license information

This bill would require the Department to create an entity to provide high-skill immigrants with information relating to the application process with Department programs.

March 2018 Status: This is a two-year bill as of 9/1/17, and remains in the second house. No further action has yet been taken on this bill.

AB 1005 (Calderon) Department of Consumer Affairs

This bill would require the Department's Office of Professional Examination Services to perform an occupational analysis of every license that requires an examination "in this state" to determine whether examinations should be offered in languages other than English. All occupational analyses and recommendations would be required to be submitted to the Legislature by January 1, 2019.

March 2018 Status: Failed to meet the January 20th deadline for action.

AB 1053 (Calderon) Professions and vocations: career technical education: licensee information

This bill would make various changes to Business and Professions Code Section 30; specifically, subsection (m), which was added through SB 66 (Leyva, Chapter 770, Statutes of 2016). Among other things, SB 66 requires the Department to provide social security numbers from all licensees (along with other identifiable information) to the California Community College's Chancellor's Office. AB 1053 would change the provision in Business and Professions Code Section 30 to only require the Department to provide the last four digits of a licensee's social security number.

March 2018 Status: Failed to meet its January deadline for action.

AB 1631 (Salas) Shorthand Reporters: Shorthand Reporting Service Corporation

This bill prohibit a shorthand reporting service corporation or its owners, managers, or employees person or entity employing shorthand reporters, or contracting with shorthand reporters for services, from giving or otherwise providing cash or cash equivalents, including gift cards, for marketing purposes.

March 2018 Status: Failed to meet its January deadline for action.

SB 27 (Morrell) Professions and vocations: licensees: military service

This bill would require each program within the Department of Consumer Affairs to waive initial application and license fees for honorably discharged veterans who served as an active duty member of the United States Armed Forces or the California National Guard.

March 2018 Status: Failed to meet the January 20th deadline for action.

Other Legislation

AB 1380 (Santiago) Developmental services: regional center services

This bill, would require regional centers to develop a process by which all vendor contracts are reviewed at least once every two years, and requires the outcome of those reviews shall be documented in the regional center's files. Additionally, this bill would require an employer to submit the fingerprints of a prospective in-home respite worker to the Department of Justice for a criminal background check prior to employment and would prohibit employment as an in-home respite provider if an

applicant has specified convictions. This bill would also require the Department of Development Services to conduct an in-depth review of in-home respite provider rates, as specified, and report results to the Legislature.

March 2018 Status: This is a two-year bill as of 9/1/17, and remains in the second house. No further action has yet been taken on this bill. This bill has not been amended becoming a two-year bill.

Follow-up Information from the November 2017 Meeting

At the November 2017 Advisory Committee Meeting, information was requested regarding which 'specified convictions' might prohibit employment as an in-home respite provider under AB 1380 (Santiago), above.

Briefly, this bill would place restrictions to employment eligibility for individuals with sex crimes history, *attempted* child abuse, *attempted* child neglect/endorsement, *attempted* elder or dependent adult abuse, theft, robbery, burglary, or any other felony. Further, this bill would place a bar against individuals with convictions for fraud against a government health care or supportive services program, child neglect/endorsement, and elder or dependent adult abuse.

More specifically, AB 1380 would add section 4686.1 to the Welfare and Institutions Code, specifying that in-home respite worker employees must submit fingerprints to the DOJ prior to employment. What happens next falls into three separate scenarios:

I) Under proposed WIC § 4686.1(b), **the employer has the discretion to deny employment** to any individual who has:

- 1) A conviction for Sexual Battery under PC 243.4,
- 2) A conviction for a sex offense against a minor,
- 3) Any conviction for an offense requiring sex offender registration under PC § 290, or
- 4) A conviction **or record of incarceration** within the past 10 years for
 - a. An *attempted* violation of PC § 273a(a) – Child Neglect/Endorsement
 - b. An *attempted* violation of PC § 273d – Child Abuse
 - c. PC § 368(a) or (b) – Crimes Against Elders or Dependent Adults
 - d. Theft, robbery, burglary, or
 - e. **any felony.**

II) Under proposed WIC § 4686.1(b)(2) and (3), **the employee shall not be hired as an in-home respite worker if:**

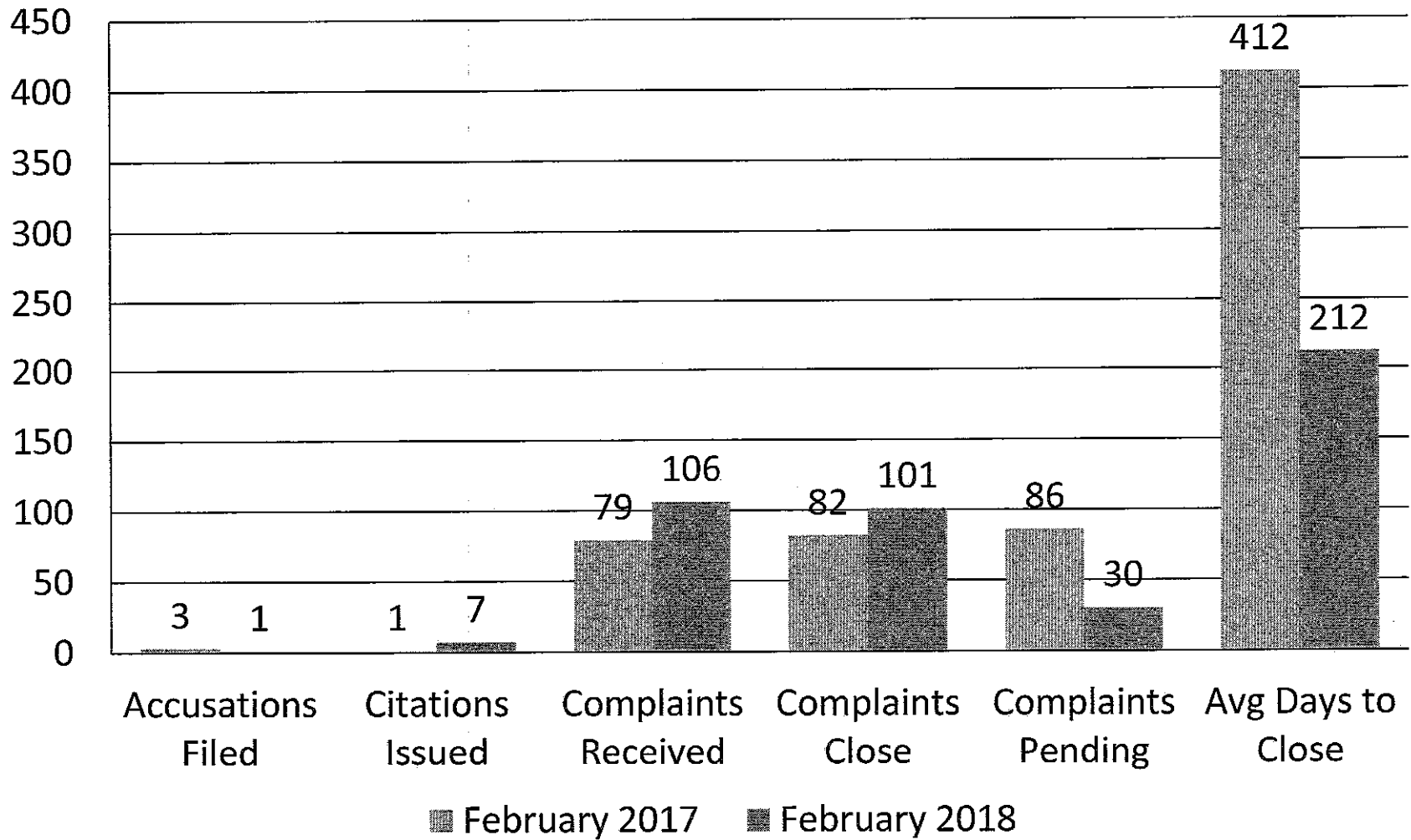
- 1) Within the last 10 years, an employee has a conviction for or has been incarcerated for:
 - a. Fraud against a government health care or supportive services program
 - b. Violation of PC § 273a(a) – Child Neglect/Endorsement
 - c. Violation of PC § 368 – Crimes Against Elders or Dependent Adults.

III) Under WIC § 4686.1(c), The applicant **may be hired, but cannot be paid** for a period of 10 years following conviction or incarceration for:

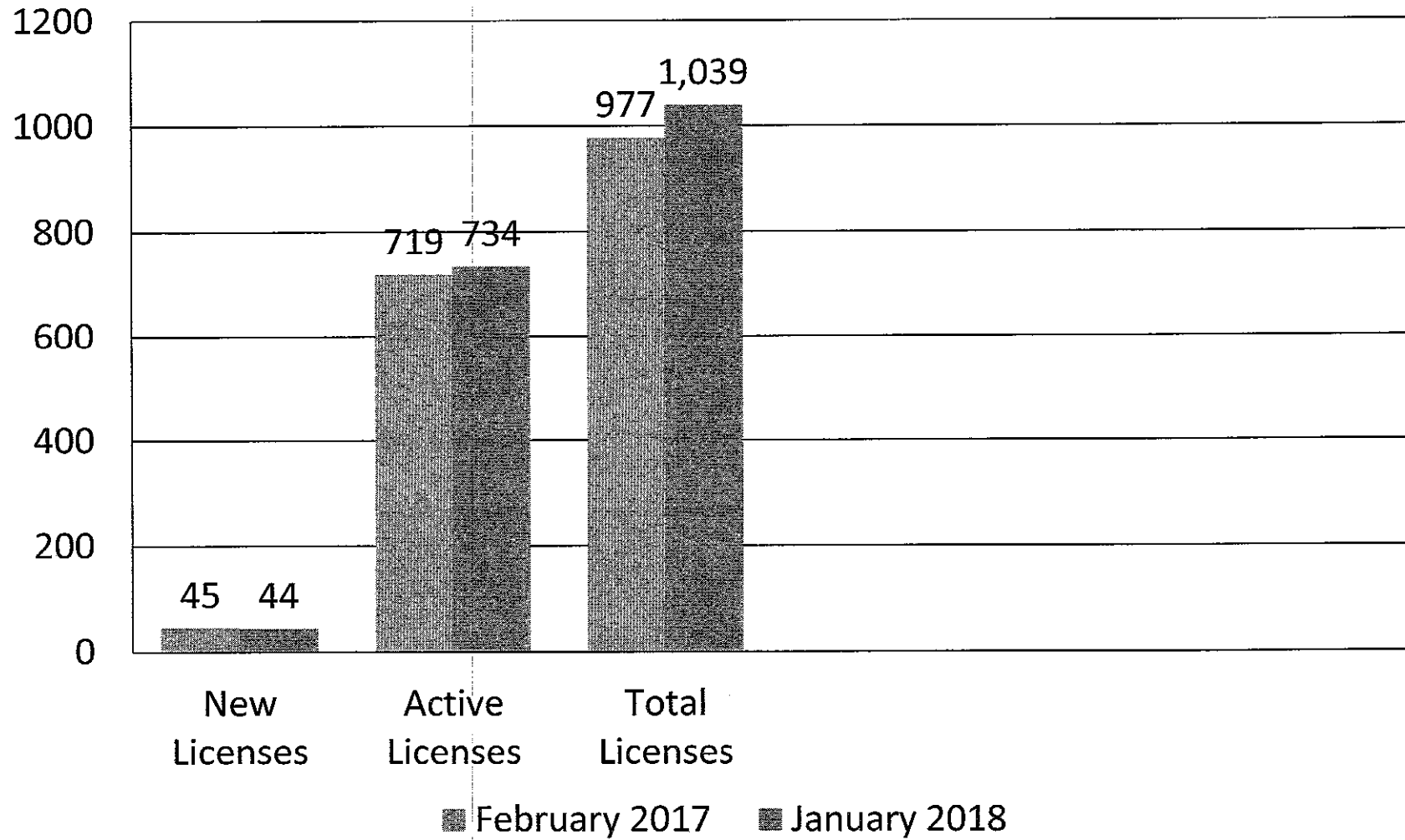
- 1) Any crime requiring sex offender registration,
- 2) Any 'serious or violent felony' as defined in the Penal Code.

Further, per proposed WIC § 4686.1(d)(1), an applicant *may* be employed as an in-home respite worker notwithstanding their convictions if they have received a Certificate of Rehabilitation as defined in PC § 4852.01 *et seq.* Also, an individual wishing to hire an in-home respite worker may seek a waiver of the exclusions for criminal history.

Complaint Statistics Two Fiscal Year Comparison



Licensing Statistics Two Fiscal Year Comparison



OUTREACH EVENTS

Since the last Advisory meeting

- Sacramento Financial Abuse Specialist Team (SacFAST) in Sacramento on January 10, 2018
- Dixon Senior Resource Fair in Dixon on February 10, 2018
- Shasta County District Attorney's Office 3rd Annual Senior & Veteran Fraud Prevention Fair on March 6, 2018 in Redding

Upcoming Events

- California Financial Literacy Month Resource Fair 2018 on April 17, 2018 at the State Capitol
- 23rd Annual PFAC Educational Conference in Riverside May 30-June 2, 2018

PROFESSIONAL FIDUCIARIES BUREAU

(Division 41, Title 16, California Code of Regulations)

PROPOSED LANGUAGE

Adopt Article 12, § 4640 of the California Code of Regulations as follows:

Article 12. Rules of Professional Conduct.

Section 4640. Client Notification.

Beginning XXXX, 2019, every licensed Professional Fiduciary shall at all times provide notice reasonably calculated to be received by the licensee's clients, of the fact that the licensee is licensed by the Professional Fiduciaries Bureau, as set forth in subdivisions (a), (b), and (c) below. For purposes of this section, "licensee" means a person who is a licensed Professional Fiduciary under the Professional Fiduciaries Act. For purposes of this section, "client" means a person who is the recipient of professional fiduciary services.

(a) Licensees shall provide clients with written notice as described in subdivision (b) to all clients in at least 14 – point Arial font. All notices and confirmations shall be retained in the client file for three (3) years after the licensee is no longer retained by the client. Notice shall be provided to all clients by any of the following methods:

- (1) Notice may be provided in person. If notice is provided in person, licensee shall maintain a dated copy signed by the applicable parties listed in subdivision (d) .
- (2) Notice may be provided by email. If notice is provided by email, licensee shall maintain a copy of the sent email. That email also must contain the date that it was sent and the email address of the recipient.
- (3) Notice may be provided by registered or certified mail. If notice is provided by mail, licensee shall maintain a copy along with a proof of service that complies with the requirements of California Code of Civil Procedure 1013a.
- (4) Notice may be provided by facsimile. If notice is provided by facsimile, licensee shall maintain a copy of notice and facsimile confirmation in the client file.

(b) At the licensee's place of business, in a location which is accessible to the public, notification shall be prominently posted in a conspicuous location visible to clients, and shall include the following statement and information in at least 36 – point type in Arial font:

NOTIFICATION TO CONSUMERS

_____ (insert name) is a Professional Fiduciary licensed and regulated by the State of California, Department of Consumer Affairs, Professional Fiduciaries Bureau
Telephone and Website: (916) 574-7340 www.fiduciary.ca.gov

Licensees who maintain a home-based office not accessible to the public are exempt from this subdivision.

(c) If the licensee maintains a Website, written notice as described in subdivision (a) shall be posted on the licensee's Website in at least 14 – point type Arial font. This subdivision does not relieve the licensee of the notice requirement of subdivision (a) and (b).

(d) Written Notice as described in subdivision (a) is considered to have been provided to the client if:

- (1) It is provided directly to the client if the client is not incapacitated and is a natural person, or
- (2) It is provided to the settlor(s) and the beneficiary of the trust prior to appointment of the trustee if a trust is involved. Once the settlor(s) are deceased, written notice shall be provided to each heir of the deceased settlor(s), or
- (3) It is provided to the spouse, if any, or registered domestic partner, if any, of the proposed conservatee prior to appointment if a conservatorship is involved. At the inception of a conservatorship, the licensee shall also provide notice to the attorney for the conservatee, if applicable, or
- (4) It is provided to the following parties if a guardianship is involved:
 - (A) The proposed ward if 12 years of age or older, or
 - (B) Any person having legal custody of the proposed ward, or serving as guardian of the estate of the proposed ward, or
 - (C) The parents of the proposed ward, and
 - (D) If applicable, the attorney of the ward at the inception of the guardianship; or
- (5) It is provided to the individual whom the licensee is serving as Power of Attorney if a Power of Attorney is involved.

NOTE: Authority cited: Sections 138 and 6517 of the Business and Professions Code.
Reference: Sections 6515, 6516, 6520, 6530, 6532 and 6533 of the Business and Professions Code. and Sections 1511, 1822, and 16061.7 of the Probate Code.

DATED: _____

Rebecca May, Bureau Chief

Professional Fiduciaries Bureau