

**Professional Fiduciaries Bureau
Advisory Committee Meeting**

Wednesday, August 15, 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) Reading of the Professional Fiduciaries Bureau Mission Statement – Rebecca May, Bureau Chief
- 5) Discussion and Approval of the Advisory Committee Meeting Minutes from June 20, 2018
- 6) Update from the Director's Office – DCA Executive Staff
- 7) Bureau Updates – Rebecca May, Bureau Chief
 - Application, Licensing and Enforcement Statistics
 - Outreach Events
 - E-Newsletter
 - Bureau's Strategic Plan 2018 – 2022
- 8) Budget Report – DCA Budget Analyst
 - Budget Overview and Update
- 9) Legislative Update and Discussion – DCA Legislative Analyst
 - 2018 Legislation Related to the Bureau
 1. AB 1247 (Nazarian) Professional Fiduciaries: Prelicensing Education
 2. AB 2113 (Obernolte) Estates and Trusts: Guardianships
 3. AB 2236 (Maienschein) Conservatorships
 4. AB 2426 (Maienschein) Trustee: Power to Terminate Trust
 5. AB 2750 (Obernolte) Certified Copies of Death Records
 6. AB 3144 (Low) Professional Fiduciaries Bureau
 7. SB 909 (Hertzberg) Uniform Trust Decanting Act
 8. SB 931 (Hertzberg) Conservatorships: Custody Status
 - 2018 Legislation Related to the Department
 1. AB 2138 (Chiu) Licensing Boards: Denial of Application: Revocation or Suspension of Licensure: Criminal Conviction
 2. SB 984 (Skinner) State Boards and Commissions: Representation: Appointments: Women
 3. SB 1137 (Vidak) Veterans: Professional Licensing Benefits
 - Other Bills: Dead Bills, Bills No Longer Related to the Department, and 2-Year Bills
 1. AB 767 (Quirk-Silva): GO-Biz Information Technology (Previously Entitled 'Master Business License Act')
 2. AB 827 (Rubio) Department of Consumer Affairs: Task force: Foreign-Trained Professionals (a 2-year bill with no further action taken)

3. AB 1380 (Santiago) Developmental Services: Regional Center Services (a 2-year bill with no further action taken)
 4. AB 2483 (Voepel) Indemnification of public officers and employees: antitrust awards (Dead – Missed June deadline to pass out of Policy Committee)
 - Follow-up on Specific Items from Previous Meeting
 1. AB 2113 (Obernolte) Estates and Trusts: Guardianships
 2. AB 2750 (Obernolte) Certified Copies of Death Records
- 10) Proposed Rulemakings – Rebecca May, Bureau Chief
 - Update Regarding Proposed Inactive/Retired License Regulation - Sections 4560-4580 of Article 8 of Title 16 of the California Code of Regulations
 - Update Regarding Proposed Client Notification Regulation - Section 4640 of Article 12 of Title 16 of the California Code of Regulations
 - Introduction and Discussion of Proposed Advertising Regulation - Section 4485 of Article 4 of Title 16 of the California Code of Regulations and Amendment to Section 4406 of Article 1 of the California Code of Regulations
 - Introduction and Discussion of Proposed Amendments to Citation Sections 4600 and 4606 of Article 10 of Title 16 of the California Code of Regulations
 - 11) Vote for Formation of Apprenticeship Subcommittee
 - 12) Future Agenda Items
 - 13) Future Meeting Dates
 - Wednesday, November 7, 2018
 - 14) Public Comment on Items Not on the Agenda (See “Note” below)
 - 15) Adjournment

Please note: In accordance with the Bagley-Keene Open Meeting Act, all meetings of the Bureau 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 of the Professional Fiduciaries Act by promoting and upholding competency and ethical standards across the profession.



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 (Bureau)
 Advisory Committee Meeting
 Wednesday, June 20, 2018**

Meeting Minutes

Committee Members Present

Hang Le To, Chair
 Kathleen Thomson, Vice Chair
 Dawn Akel
 Jenny Chacon (via teleconference location) arrived at 10:27a.m.
 Barbara de Vries (via teleconference location)
 Aileen Federizo (via teleconference location)

Committee Members Absent

King Gee

Department of Consumer Affairs (DCA) Staff Present

Rebecca May, Bureau Chief
 Angela Cuadra, Bureau Program Analyst
 Fred Chan-You, DCA Legal Counsel

- 1) Call to Order – Ms. To called the meeting to order at 10:05 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. Kathleen Thomson, and Ms. Dawn Akel 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 five members present. Ms. Chacon arrived after the establishment of a quorum at 10:27 a.m.
- 3) Advisory Committee, Bureau Chief, Staff and Legal Counsel Introductions – Committee Members introduced themselves. Ms. Jordan Goldstein introduced herself from the San Francisco teleconference location.
- Public Comment: None.
- 4) Reading of the Professional Fiduciaries Bureau Mission Statement –
 Ms. May read the Bureau's new mission statement.
- Public Comment: None.

1
2 5) Discussion and Possible Approval of the Advisory Committee Meeting Minutes from March 29,
3 2018 –
4 Ms. Akel motioned to approve the minutes as written. Ms. Federizo seconded the motion. A vote
5 by roll call was made: Ms. de Vries, Ms. Federizo, Ms. Akel, Ms. Thomson, and Ms. To were in
6 favor. Ms. Chacon and Mr. Gee were absent for the vote. The motion carried with six votes.
7

8 Public Comment: None.
9

10 6) Updates from the Director's Office –
11 Ms. Karen Nelson, Assistant Deputy Director of Board and Bureau Services, presented updates
12 from the Director's Office.
13 The Director's quarterly meeting was held on April 30, 2018 to discuss prorata and Department
14 policies and procedures. The next Director's quarterly meeting will be held on August 6, 2018.
15 Director, Dean Grafilo, will begin holding regular leadership meetings and committee members
16 are welcome to participate in the upcoming meeting on June 25, 2018.
17 Finally, in April the Department launched licensing and enforcement workgroup meetings to
18 identify, strengthen and improve business processes throughout the department. There were
19 more than 60 Executive Officers, Bureau Chiefs, and key staff in attendance at the meeting.
20

21 Public Comment: None.
22

23 7) Bureau Updates –
24

- Statistics –

Two-Year Fiscal Year Statistics Comparison	As of May 2017	As of May 2018
New Licenses	60	55
Active Licenses	727	735
Total Licenses Issued	992	1,050
Accusations Files	4	4
Citations Issued	2	13
Complaints Received	110	131
Complaints Closed	151	130
Complaints Pending	46	21
Average Days to Close	145	96

25
26 Ms. Akel asked how many applications were received and Ms. Cuadra stated applications
27 received remain approximately the same and offered to add this data to the next meeting
28 statistics. Ms. Thomson asked about statistics on pass/fail rate of the examination. Ms. Cuadra
29 stated this number is reported in the annual report each year. Ms. Federizo asked why the large
30 increase in citations issued. Ms. May stated it may be due to the increase in complaints received
31 or holdovers from last year which were cited this year.
32

- Outreach events –

33
34 Ms. May read the outreach handout and added that the Bureau also attended a Senior Fraud Fair
35 in Fairfield last week. If the members know of any upcoming events, please let the Bureau know.
36 Ms. Thomson thanked the Bureau for branching out to Southern and Northern California and
37 hopes this will continue. Ms. de Vries offered to sit at a table at events in her area.
38

- Bureau's 2018-2022 Strategic Plan –

39

1 Ms. May stated the Bureau's action planning was completed on May 21st which gives the Bureau
2 tangible goals to meet our strategic plan goals. The strategic plan has been posted to the
3 Bureau's website and is available for the public to view.
4

5 Public Comment: None.
6

7 • 2017 Continuing Education Audit –

8 The Bureau asked 39 licensees to provide proof of compliance with the annual requirements. One
9 licensee was unable to provide proof of completion and two licensees did not respond. These
10 individuals were cited. This represents 8% of the individuals contacted. This audit had a better
11 response and compliance rate than the last audit.
12

13 Public Comment: None.
14

15 • E-Newsletter –

16 A draft newsletter is nearly complete and will be with Legal at the end of this week for review.
17 Once the reviews are complete, the publications office will format the newsletter and it will be
18 posted to the Bureau's website.
19

20 Public Comment: None.
21

22 8) Budget Report –

23 Mr. Matt Nishimine presented the expenditure projections and fund condition. The expenditure
24 report represents the Bureau's actual expenditures to date. The budget is in line with historical
25 spending and nearly spends its full projection. At the last meeting there was discussion about
26 moving the line items and this can be done for the FY 19/20 budget.

27 Ms. Thomson asked if there is a reason there is nothing listed under exam expenses. Mr.
28 Nishimine stated the Bureau did not expend any funds for examination and Ms. May added the
29 applicants pay exam fees directly to the vendors.

30 Mr. Nishimine noted the fund condition is a projection by item. Revenues appear to be coming in
31 higher than last year by approximately \$73,000. Mr. Gee had asked about other regulatory fees at
32 the last meeting. Mr. Nishimine stated this line indicates citation fines.
33

34 Public Comment: None.
35

36 9) Legislative Update –

37 Mr. Alexander Millington, DCA Legislative Affairs Analyst, presented the following updates.

38 • 2018 Legislation Related to the Bureau

39 Mr. Millington reviewed the handout presented in the materials. The following comments were
40 made during the bill review of bills related to the Bureau:

- 41 1. AB 2113 (Oberholte) Estates and Trusts: Guardianships – Ms. Federizo asked why
42 this bill was created and why it specifies person and estate. Mr. Millington will look into
43 this bill and report at the next meeting. Ms. Thomson stated it terminates of the person
44 upon death, but the estate may still be open until heard by the court. Ms. Akel added
45 the fiduciary can pay for burial and funeral expenses after death of the client.
- 46 2. AB 2236 (Maienschein) Conservatorships – Ms. Thomson stated the use of ward is not
47 correct for a conservatorship. Mr. Millington stated the actual text does refer to
48 conservatee and not ward. Ms. Federizo asked if the law will still lay out what the
49 fiduciary can do after the death of a conservatee and Mr. Millington stated he is not an
50 expert and he would need to research the bill. Ms. de Vries stated you would be
51 allowed to pay bills prior to death and burial and funeral expenses.

- 1 3. AB 2750 (Oberholte) Certified Copies of Death Records – Ms. Goldstein asked if this
2 would extend to a pre-deceased spouse and Mr. Millington stated he will research and
3 report at the next committee meeting.
4 4. SB 931 (Hertzberg) Conservatorships: Custody Status – Ms. Thomson asked if this
5 was in reference to an Lanterman-petris-short (LPS) conservatorship under the
6 Welfare and Institutions Code (WIC) and Mr. Millington stated he does not see that it
7 specifies LPS. Ms. Federizo stated this could apply to all types of conservatorships.
8 Mr. Millington stated amendments would be made to sections 5352 and 5352.5 of the
9 WIC. Mr. Millington also stated the analysis of the Assembly Judiciary Committee’s
10 analysis references circumstances leading to an LPS conservatorship.

11 • 2018 Legislation Related to the Department

12 Mr. Millington reviewed the handout presented in the materials. There were no comments
13 made during the bill review of bills related to the Department.
14

- 15 • Update regarding the difference between general and limited conservatorships in regard to
16 AB 1779 (Nazarian) Sexual orientation: change efforts
17 This bill did not make a distinction between general and limited conservatorships and the
18 bill is now dead.
19

- 20 • Discussion of legislative proposals related to AB 3144 (Assembly Committee on Business
21 and Professions) Professional Fiduciaries Bureau
22 Mr. Millington reviewed the handout of legislative proposals. The following comments were
23 made during the legislative proposal review:
24

- 25 1. Requiring licensure of decedent estate administrators – Ms. Thomson asked how
26 many clients would a decedent estate administrator have to have to require licensing
27 and Ms. Cuadra replied it is currently drafted into the definition section under
28 conservators and guardian, so licensing would be required if there was more than one
29 client. Ms. Federizo asked if this included administrators and Ms. May stated the bill
30 was amended this morning and read the amended language. Mr. Millington stated that
31 section 58 of the Probate Code further defines as: executor, administrator,
32 administrator with the will annexed, special administrator, successor personal
33 representative, public administrator, or person performing substantially the same
34 functions under another jurisdiction.
35 2. Billing clients for responding to complaints – Ms. Federizo stated as fiduciaries she
36 works with families who are in conflict and many complaints are made with other
37 agencies such as Adult Protective Services and the police and they charge for their
38 time responding to those complaints. She sees other agencies similar to the Bureau
39 and feels if the complaints are not justified, the fiduciary should be able to charge for
40 their time. Mr. Millington clarified this is only with complaints filed with the Bureau and
41 does not extend to other agencies. Ms. Federizo does not understand if the client or
42 family member complains to the Bureau quarterly and it is the same complaint why the
43 fiduciary would not be able to charge for their time. Ms. May stated if a complainant
44 continues to contact the Bureau with the same allegations, the Bureau would not
45 reopen the complaint and contact the licensee unless new allegations were made. Mr.
46 Millington added that sometimes a response is not required from the fiduciary and
47 contact would only be made if a response is needed from the fiduciary.
48 3. Additional pathway to licensure – Ms. Akel asked if an associates degree would also
49 be required. Mr. Millington stated with an associate’s degree the applicant would need
50 three years of experience. Ms. Cuadra added an applicant would still qualify with a
51 bachelor’s degree. Ms. Federizo asked if a person acting for a family member for five

1 years would qualify and Ms. May stated that experience would be considered in the
2 review of the application. Ms. May also stated the experience only date was originally
3 a grandfather clause to allow fiduciaries with experience to become licensed when the
4 Bureau was formed and this proposal would strike that date. Ms. Federizo feels
5 experience working only for a family member is different and the applicant would
6 require more training. Ms. Cuadra stated that family experience could be used as part
7 of the experience requirements, however, working only for one family member for five
8 years may not qualify the applicant. The applicant would still have to provide proof of
9 substantive experience and each application would be reviewed to make that
10 determination.

- 11 4. Reporting requirements for fiduciaries removed as a direct cause of a complaint filed
12 with the Bureau – Ms. Federizo asked for a definition of “complaint filed with the
13 bureau?” Mr. Millington stated it would be a complaint filed with the court and reported
14 to the Bureau. Ms. Federizo asked if a fiduciary is going to resign after a complaint
15 was filed with the court, then it would have to be reported to the Bureau? Mr. Millington
16 stated this is to clarify and reduce the amount of reporting required by the licensee.
17 Ms. Federizo would like it worded differently because fiduciaries resign all the time and
18 most of the time it is not due to wrong doing by the fiduciary. Ms. Cuadra stated you
19 would only have to report the cases as resignations if a complaint was filed with the
20 court. The cases would still be reported as closed on the annual statement but not
21 specifically as a resignation.

22
23 Public Comment: Mr. Jerry Desmond, Legislative Advocate for Professional Fiduciary
24 Association of California (PFAC) and Ms. Meredith Taylor, Co-Chair of the PFAC Legislative
25 Committee presented thoughts on AB 3144. PFAC is in support of the continuation of the Bureau
26 and would ideally like the Bureau to become permanent. PFAC has submitted a letter of support
27 for continuation of the Bureau and concern regarding the provision of billing clients for
28 responding to the Bureau for complaints. PFAC is requesting that if the complaint is unfounded,
29 that the licensee would be allowed to bill the client for their time. The formal position is PFAC
30 opposes the provision in this bill unless amended. Most professional fiduciaries do not bill their
31 client for the time spent responding to the Bureau and PFAC does not feel this is needed in the
32 law. PFAC supports all other sections of the bill.

33
34 Break: 11:46 a.m. – 11:57 a.m.

- 35
36 10) Update Regarding the Bureau's Occupational Analysis –
37 Ms. Tracy Montez, Division Chief of Programs and Policy Review, presented a summary of the
38 Occupational Analysis. The study is required by Business and Professions Code section 139 and
39 the Bureau did not have a current in-house occupational analysis on file. The analysis included
40 interviewing licensed professional fiduciaries, workshops, and a licensee survey. The benefit of
41 having a small licensee population is the survey was sent to all licensees and there was
42 approximately 21% response rate. This information was compiled to provide information about
43 what parts of occupation should be assessed in the examination. This will be used in completing
44 items on the strategic plan and other Bureau functions as needed. An occupational analysis is
45 required approximately every five years. The Office of Professional Examination Services is now
46 working with the Center for Guardianship Certification (CGC) reviewing the current exam to
47 determine how it was developed, how it's administered, security protocols, and to support the
48 validity and reliability of the exam. Once the review is complete, the Bureau will come back to the
49 Advisory Committee with recommendations to make sure the exam is valid, fair and legally
50 defensible. The Bureau and CGC are currently in negotiations of a non-disclosure agreement in
51 order to share confidential information.

1
2 Public Comment: None.
3

4 11) Proposed Rulemakings -

- 5 • Update regarding Inactive/Retired License Proposed Regulation – Sections 4560-4580 of
6 Article 8 of Title 16 of the California Code of Regulations
7 Ms. May stated this is in pre-review process with the legal office and once review is
8 complete it will be filed with the Office of Administrative law and be made available for
9 public comment.
10
- 11 • Update and discussion regarding Client Notification Proposed Regulation – Section 4640
12 of Article 12 of Title 16 of the California Code of Regulations.
13 The proposed language has been revamped and we hope this language is simpler while
14 still following the intent of the law. Mr. Chan-You stated the Bureau has modified the
15 language to mirror the Board of Accountancy's client notification regulations.
16

17 Public Comment: Mr. Desmond stated PFAC supports client notification regulation. PFAC will
18 review the language and respond to the Bureau. At first glance, the section which states
19 "immediately about to receive services" may need to be looked at. Mr. Chan-You stated this was
20 added due to a previous concern that some licensees do not know they are named in a document
21 until the client passes away. Ms. Federizo asked if this means the licensee does not need to notify
22 until they are aware of the client and Mr. Chan-You stated that is correct. Ms. Goldstein asked if
23 the licensee would notify each client one time and Mr. Chan-You replied that is correct. Ms.
24 Goldstein asked if she would then have to notify clients if she was not licensed and Mr. Chan-You
25 replied that is not a requirement of BPC 138.
26

27 12) Discussion Regarding the Bureau's 2018-2022 Strategic Plan and Possible Formation of
28 Subcommittees to Further the Goals of the Strategic Plan –

29 Ms. May stated the plan is included in the packet and stated she would like to form sub-
30 committees for the creation of an apprenticeship program and to review continuing education
31 requirements.
32 Ms. Chacon asked how the progress on the Strategic Plan will be reported back to the committee.
33 Ms. May stated an action plan was completed with measurable goals and will report back to the
34 committee.
35 Ms. de Vries and Ms. Federizo would like to be on the mentorship (sic) subcommittee. Ms. de
36 Vries requested the mentors earn continuing education credits for mentoring. Ms. Akel would like
37 to be on the continuing education subcommittee.
38

39 Public Comment: Mr. Desmond commented on the behalf of PFAC support for these
40 subcommittees and would be happy to provide input as needed.
41

42 13) Review and Discussion of Possible Revisions to the Bureau's Brochures –

43 Ms. May stated as the stock dwindles down the Bureau would like to breathe new life into the
44 brochures.
45 Ms. Akel asked if licensees can purchase brochures. Ms. Cuadra answered the new documents
46 will be available in a format which can be printed from the website. Ms. Thomson recommended
47 the mission and vision statements be changed. Ms. de Vries asked for a larger font. Ms. Chacon
48 would like a more diverse graphics.
49 Ms. May would also like to create a new brochure to entice new licensees and Ms. Thomson
50 offered to assist with the brochure.
51

1 Public Comment: None.

2

3

14) Future Agenda Items

4

- Include number of applications received with licensing and enforcement statistics

5

- Follow-up on AB 2113

6

- Follow-up on AB 2750

7

- Action Plan

8

- Update on AB 3144

9

10 Public Comment: None.

11

15) Future Meeting Dates

12

-Wednesday, August 15, 2018

13

-Wednesday, November 7, 2018

14

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

15

16

Public Comment: None.

17

18

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

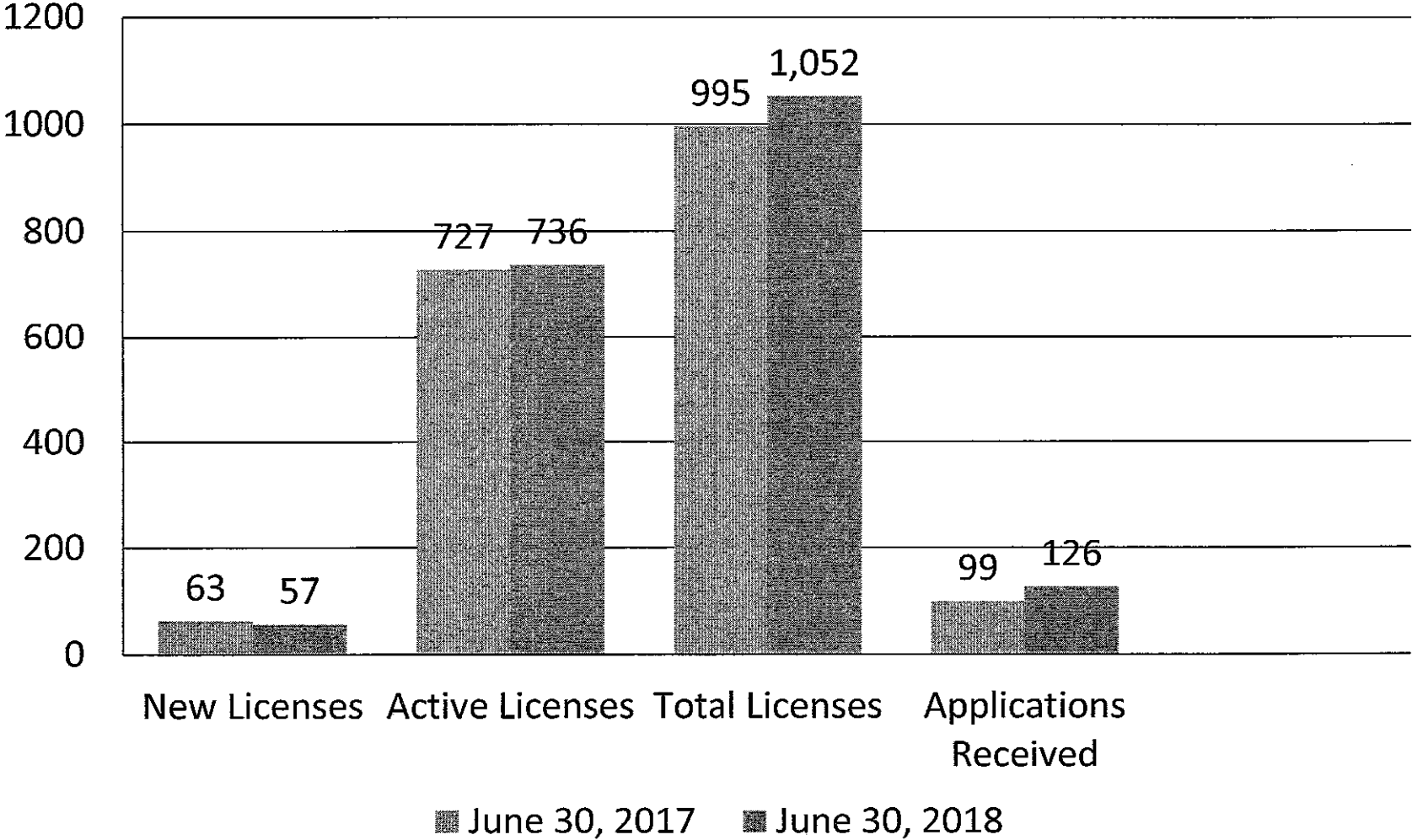
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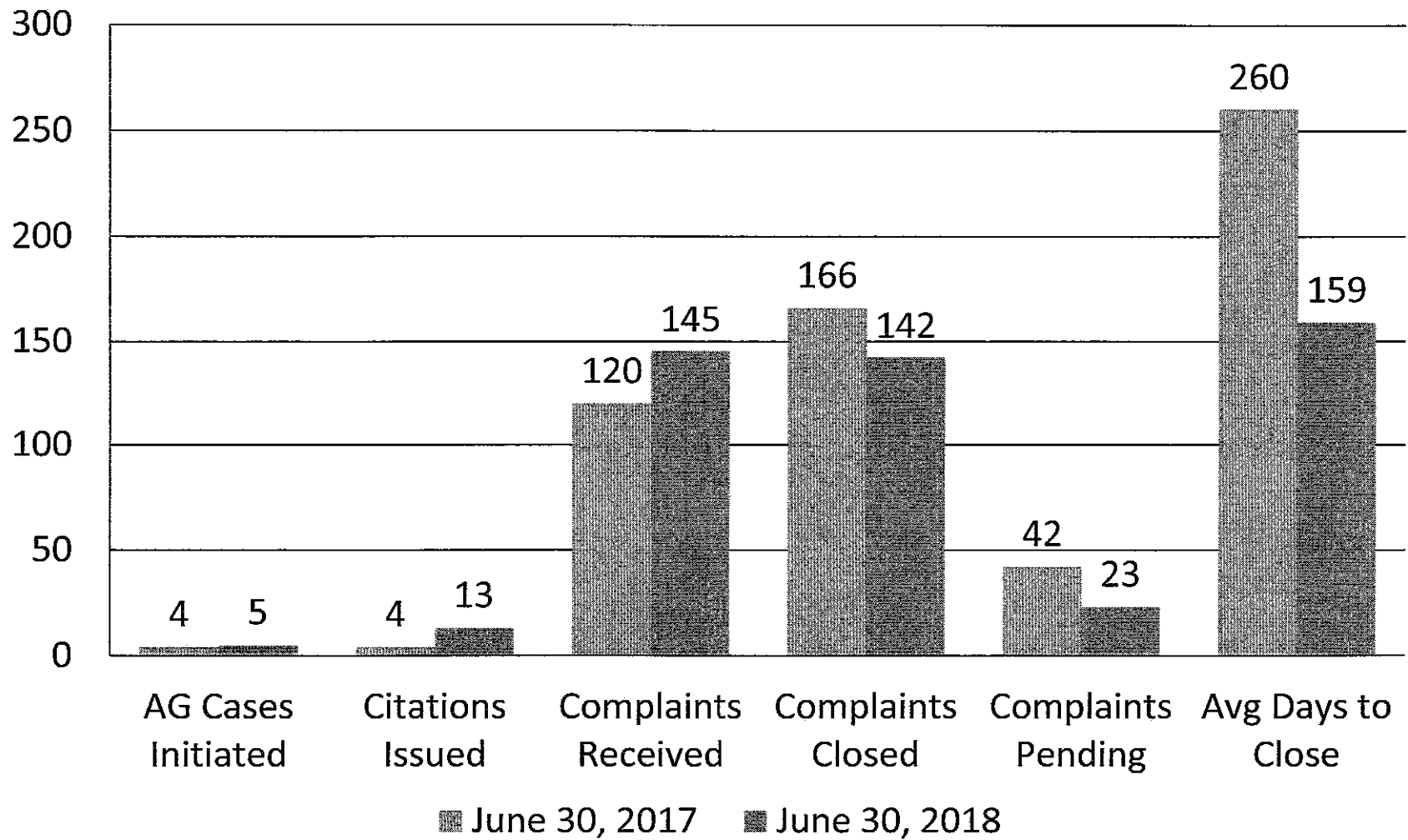
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17) Adjournment – The meeting was adjourned at 12:33 p.m.

Licensing Statistics Two Fiscal Year Comparison



Complaint Statistics Two Fiscal Year Comparison



OUTREACH EVENTS

Since the last Advisory meeting

- None

Upcoming Events

- Estate Planning and Probate Section of the Kern County Bar Association in Bakersfield on Wednesday, October 10, 2018
- 2018 Yolo County Senior Resource and Crime Prevention Fair in Woodland

Professional Fiduciaries Bureau

Strategic Plan

2018-2022

DEPARTMENT OF CONSUMER AFFAIRS

PF**B**

PROFESSIONAL FIDUCIARIES BUREAU

Professional Fiduciaries Bureau

Members of the Professional Fiduciaries Advisory Committee of California

Hang Le To, Public Member Committee Chair

Kathleen Thomson, Probate Court Investigator, Vice Chair

Dawn Akel, Professional Member

Jenny Chacon, Public Member

Aileen Federizo, Professional Member

King F. Gee, Non-Profit Elderly Advocate, Public Member

Barbara de Vries, Professional Member

Edmund G. Brown Jr., Governor

Alexis Podesta, Secretary, Business, Consumer Services and Housing Agency

Dean R. Grafilo, Director, Department of Consumer Affairs

Rebecca May, Bureau Chief, Professional Fiduciaries Bureau

Table of Contents

MESSAGE FROM THE BUREAU CHIEF..... 4

ABOUT THE PROFESSIONAL FIDUCIARIES BUREAU 5

RECENT ACCOMPLISHMENTS..... 6

MISSION, VISION, AND VALUES 7

STRATEGIC GOALS 8

GOAL 1: LICENSURE 9

GOAL 2: ENFORCEMENT 10

GOAL 3: COMMUNICATION AND OUTREACH..... 11

GOAL 4: PROFESSIONAL EDUCATION 12

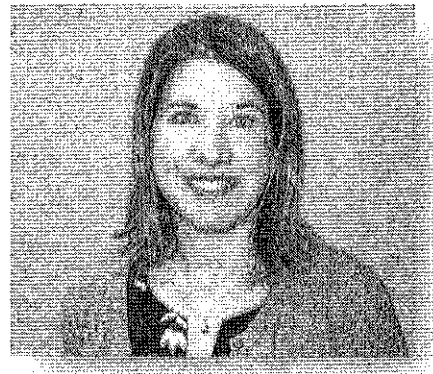
GOAL 5: REGULATION AND LEGISLATION..... 13

GOAL 6: ADMINISTRATION 14

PLANNING PROCESS..... 15

Message from the Bureau Chief

On behalf of the Professional Fiduciaries Bureau (Bureau), I am pleased to present our 2018-2022 Strategic Plan.



The strategic planning process provided the Bureau an opportunity to examine its mission and values, gauge successes, and determine how to improve outcomes. The product of this effort, this Strategic Plan, will serve as a roadmap for the Bureau's future – one that clearly defines our goals and sets corresponding objectives toward reaching those goals.

The Bureau's sole purpose is the protection of consumers through the licensure and regulation of professional fiduciaries. With this Strategic Plan in place, our Bureau has achievable benchmarks to foster our success in meeting this mandate.

This document is the result of a partnership by the Department of Consumer Affairs' SOLID team and Bureau staff, that includes valuable feedback from our Advisory Committee, licensees, and stakeholders. I am grateful for the time and effort of all participants and I am pleased to share the result of our work with you.

Rebecca May, Bureau Chief

About the Professional Fiduciaries Bureau

The Professional Fiduciaries Bureau (Bureau) was established via legislation in 2007 for the purpose of regulating non-family member professional fiduciaries, including conservators, guardians, trustees, and agents under durable power of attorney as defined by the Professional Fiduciaries Act. The Professional Fiduciaries Act is comprised of the Business and Professions Code Section 6500, et. seq. and the California Code of Regulations, Title 16, Section 4400 -4622.

Professional Fiduciaries provide critical services to seniors, persons with disabilities, and minors. Professional Fiduciaries manage matters for clients such as daily care, housing and medical needs along with offering financial management services ranging from bill paying to estate and investment management.

The mandate of the Bureau is to protect and serve the consumer by licensing and by enforcing the Professional Fiduciary Act and its regulations. To accomplish this, the Bureau ensures only applicants possessing the required education and experience qualifications, and examination requirements receive licenses.

Requirements for licensing include passing a background check and an examination, completing thirty (30) hours of approved education courses, and earning fifteen (15) hours of continuing education credit each year for license renewal.

The enabling statute to license Professional Fiduciaries also established the Professional Fiduciary Advisory Committee (Committee). The Committee is comprised of a total of seven (7) members as listed in the table below:

Committee Member	Members	Appointed By
Public Members	2	One member by Senate Rules Committee and one member by Speaker of the Assembly
California licensed professional fiduciary members	3	Governor
Probate court investigator	1	Governor
Non-profit organization advocating on behalf of the elderly	1	Governor

The Governor also appoints the Bureau Chief. Bureau staff consists of three permanent positions.

The Bureau continually strives to enforce its mandate and mission in the most efficient manner by exploring new and/or revised policies, programs, and processes. The Bureau also actively works to increase the quality and availability of services, as well as providing courteous and competent service to all stakeholders.

Recent Accomplishments

As a part of the strategic planning process, the Advisory Committee evaluated its previous strategic plan goals and identified which objectives were accomplished. The following are the significant Bureau accomplishments since the 2014 strategic plan was adopted:

- Hired one additional full-time enforcement analyst;
- Created retired and canceled license types in statute;
- Increased our outreach efforts to both the public and potential licensees;
- Created two videos to explain the licensing and renewal process for posting on the Bureau's website;
- Updated the Bureau's website to better clarify the complaint process; and,
- Established social media accounts for the Bureau.

Mission, Vision, and Values

Mission

To protect consumers through licensing, education, and enforcement of the Professional Fiduciaries Act by promoting and upholding competency and ethical standards across the profession.

Vision

Safeguarding the well-being of consumers who receive professional fiduciary services.

Values

Consumer Protection

Professionalism

Responsive

Teamwork

Transparency

Strategic Goals

1. Licensure

Promote licensing standards and entry into the profession while safeguarding consumers.

2. Enforcement

Protect consumer quality of life by the enforcement of laws and regulations governing the fiduciary profession.

3. Communication and Outreach

Proactively inform consumers and licensees about the practice, regulation, and developments that affect the fiduciary profession.

4. Professional Education

Enhance consumer protection through initial and continuing education requirements for licensees.

5. Regulation and Legislation

Protect consumers by enhancing regulation and legislation to meet evolving industry challenges.

6. Administration

Efficiently use resources and personnel to meet Bureau goals and objectives.

Goal 1: Licensure

Promote licensing standards and entry into the profession while safeguarding consumers.

- 1.1 Increase licensee population to facilitate consumer access to fiduciaries.
- 1.2 Create and develop an apprentice program as a pathway to licensure to promote increased knowledge and experience within the profession.
- 1.3 Conduct an occupational analysis to update the examination to meet Business and Professions Code § 139 and study guides to better represent the entry level qualifications of the profession.
- 1.4 Implement an online application and renewal process to improve the efficiency of the current application and renewal process.
- 1.5 Revise and update website with concise information to improve the ease of licensee and consumer navigation.

Goal 2: Enforcement

Protect consumer quality of life by the enforcement of laws and regulations governing the fiduciary profession.

- 2.1 Review laws and regulations for clarity to enhance enforcement authority.
- 2.2 Update website to include enforcement procedures to increase understanding and transparency.
- 2.3 Explore updating the database so the website reflects removals and resignations to better inform consumers.
- 2.4 Determine the feasibility of utilizing an internal consultant to assist with reviewing enforcement cases.

Goal 3: Communication and Outreach

Proactively inform consumers and licensees about the practice, regulation, and developments that affect the fiduciary profession.

- 3.1 Disseminate information about common violations as a strategy to reduce enforcement actions.
- 3.2 Strengthen relationships with other regulatory agencies, professional associations, and advocacy organizations to educate consumers about the Bureau.
- 3.3 Re-establish biannual newsletter to increase communication with all stakeholders.
- 3.4 Partner with the Department of Consumer Affairs' Office of Public Affairs to determine a communication strategy to improve communication.
- 3.5 Collaborate to identify opportunities for participation in outreach events to increase awareness of the Bureau and the fiduciary profession.
- 3.6 Review and update all Bureau informational materials to provide current and accurate information.

Goal 4: Professional Education

Enhance consumer protection through initial and continuing education requirements for licensees.

- 4.1 Determine the feasibility of restructuring the Continuing Education requirements to align course content with professional fiduciary practice.
- 4.2 Develop guidelines for approving Continuing Education providers to increase consistency and efficiency in the approval process.
- 4.3 Oversee the development of the professional fiduciary's code of ethics training to promote licensee awareness and compliance.

Goal 5: Regulation and Legislation

Protect consumers by enhancing regulation and legislation to meet evolving industry challenges.

- 5.1 Review and amend laws and regulations for clarity and licensee understanding of the laws and regulations governing the practice of a professional fiduciary.
- 5.2 Identify statutory and regulatory proposals to strengthen the Professional Fiduciary Act.
- 5.3 Promulgate regulations related to inactive and retired license status to accurately reflect licensee status.
- 5.4 Promulgate regulations related to client notification to protect consumers by informing them of the Bureau's contact information.
- 5.5 Promulgate disciplinary guidelines to standardize sanctions in disciplinary cases.

Goal 6: Administration

Efficiently use resources and personnel to meet Bureau goals and objectives.

- 6.1 Explore ways to utilize the Advisory Committee members to benefit from their expertise.
- 6.2 Monitor budget and staffing to achieve Bureau's licensing, education, and enforcement mandates.
- 6.3 Develop and implement internal procedural manuals for continuity and workforce succession planning.
- 6.4 Establish ongoing training plan with the Department of Consumer Affairs' Consumer Information Center staff to effectively respond to inquiries.
- 6.5 Pursue opportunities for staff training relating to the fiduciary profession to increase knowledge about the practice.

Planning Process

To understand the environment in which the Bureau operates as well as identify factors that could impact the Bureau's success in carrying out its regulatory duties, the Department of Consumer Affairs' SOLID Unit conducted an environmental scan of the Bureau's internal and external environments by collecting information through the following methods:

- Online survey sent to Bureau stakeholders in October 2017. The online survey received 176 responses.
- Telephone interviews and online survey conducted with Advisory Committee members in October 2017. A total four responses from both methods.
- Interview conducted with Bureau Chief in October 2017.
- An online survey sent to Bureau staff in October 2017. The online survey received three responses.

The most significant themes and trends identified from the environmental scan were discussed among the Bureau Chief, staff, and the Chief of the Department of Consumer Affairs' Division of Programs & Policy Review during a strategic planning session facilitated by SOLID on January 4, 2018. This session guided the refinement of the Bureau's mission, vision, and values. This information guided the Bureau in the development of its strategic objectives outlined in this 2018–2022 strategic plan.



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Prepared by:



Department of Consumer Affairs
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Sacramento, CA 95834

Strategic plan adopted in 2018.

This strategic plan is based on stakeholder information and discussions facilitated by SOLID for the Professional Fiduciaries Bureau in January 2018. Subsequent amendments may have been made after the Bureau's adoption of this plan.

BUDGET REPORT
Expenditure Projection
May / FM 11

Object Description	FY 2016-17		FY 2017-18				Unencumbered Balance
	Actual EXPENDITURES Month 11	Prior Year EXPENDITURES Month 11	Budget Allotment	Current Year EXPENDITURES Month 11	Percent Spent	Projections to Year End	
PERSONNEL SERVICES							
Salary & Wages (Staff)	110,184	100,796	108,000	107,404	99%	117,168	(9,168)
Statutory Exempt	6,818	0	77,000	85,800	111%	93,600	(18,600)
Temp Help (Seasonal)	37,258	21,308	22,000	28,759	131%	31,373	(9,373)
Temp Help (Exam Proctor)	0	0	0	0	0%	0	0
Board Member Per Diem	2,500	0	0	0	0%	0	0
Committee Members	0	1,800	0	2,000	0%	2,400	(2,400)
Overtime	66	66	0	0	0%	0	0
Staff Benefits	67,955	56,228	111,000	89,701	81%	97,856	13,144
TOTALS, PERSONNEL SVCS	224,781	180,198	318,000	313,664	99%	342,397	(24,397)
OPERATING EXPENSE AND EQUIPMENT							
General Expense	2,305	2,120	5,000	153	3%	2,305	2,695
Fingerprint Reports	59	59	0	59	0%	59	(59)
Minor Equipment	0	0	0	0	0%	0	0
Printing	3,843	2,810	1,000	1,137	114%	1,240	(240)
Communication	459	349	1,000	383	38%	418	582
Postage	1,190	1,107	2,000	0	0%	1,190	810
Insurance	3	3	0	885	0%	885	(885)
Travel In State	2,972	1,210	4,000	2,038	51%	2,223	1,777
Travel, Out-of-State	0	0	0	0	0%	0	0
Training	10	10	1,000	0	0%	0	1,000
Facilities Operations	39,521	39,381	32,000	36,765	115%	40,107	(8,107)
Utilities	0	0	0	0	0%	0	0
C&P Services Interdept.	0	0	3,000	12	0%	13	2,987
C&P Services - External	2,302	2,302	0	5,383	0%	5,872	(5,872)
DEPARTMENTAL SERVICES							
Office of Information Services Pro Rata	19,276	18,337	35,000	32,083	92%	35,000	0
Administration Pro Rata	37,853	33,000	41,000	37,583	92%	41,000	0
Interagency Services with OPES	100,060	0	4,000	3,667	92%	4,000	0
DOI - Special Ops Unit Pro Rata	920	913	1,000	917	92%	1,000	0
Communication Prorata	14,446	13,750	2,000	1,833	92%	2,000	0
Public Policy Review Division Pro Rata	654	913	22,000	20,167	92%	22,000	0
INTERAGENCY SERVICES:							
Consolidated Data Center	0	0	0	1,090	0%	1,189	(1,189)
Information Technology	0	0	1,000	118	12%	129	871
DP Maintenance & Supplies	585	585	0	0	0%	0	0
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	20,640	66,000	24,093	37%	26,283	39,717
Office of Admin. Hearings	2,161	1,145	0	6,145	0%	6,245	(8,245)
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	138,634	221,000	174,511	79%	193,159	27,841
TOTAL EXPENSES	479,318	318,832	539,000	488,175	91%	535,556	3,444
Scheduled/Unsch Reimbursements	(1,000)	0	(1,000)	0	0%	(1,000)	0
NET APPROPRIATION	478,318	318,832	538,000	488,175	91%	534,556	3,444
Surplus/(Deficit):							1%

3108 - Professional Fiduciary Fund Analysis of Fund Condition

(Dollars in Thousands)

Prepared 7/25/18

Budget Act 2018 with BCPs	Budget Act				
	PY 2017-18	CY 2018-19	BY 2019-20	BY+1 2020-21	BY+2 2021-22
BEGINNING BALANCE					
Prior Year Adjustment	\$ 220	\$ 212	\$ 240	\$ 236	\$ 221
Adjusted Beginning Balance	\$ -	\$ -	\$ -	\$ -	\$ -
	\$ 220	\$ 212	\$ 240	\$ 236	\$ 221
REVENUES AND TRANSFERS					
Revenues:					
4121200 Delinquent fees	\$ 2	\$ 2	\$ 2	\$ 2	\$ 2
4127400 Renewal fees	\$ 441	\$ 455	\$ 455	\$ 455	\$ 455
4129200 Other regulatory fees	\$ 7	\$ 10	\$ 10	\$ 10	\$ 10
4129400 Other regulatory licenses and permits	\$ 113	\$ 126	\$ 126	\$ 126	\$ 126
4163000 Income from surplus money investments	\$ 2	\$ 2	\$ 1	\$ 1	\$ 1
Totals, Revenues	\$ 565	\$ 595	\$ 594	\$ 594	\$ 594
Totals, Resources	\$ 785	\$ 807	\$ 834	\$ 830	\$ 815
EXPENDITURES					
Disbursements:					
1111 Department of Consumer Affairs Program Expenditures (State Operations)	\$ 538	\$ 543	\$ 554	\$ 565	\$ 576
9892 Supplemental Pension Payments (State Operations)	\$ -	\$ 9	\$ 9	\$ 9	\$ 9
9900 Statewide General Administrative Expenditures (Pro Rata) (State Operations)	\$ 35	\$ 15	\$ 35	\$ 35	\$ 35
Total Disbursements	\$ 573	\$ 567	\$ 598	\$ 609	\$ 620
FUND BALANCE					
Reserve for economic uncertainties	\$ 212	\$ 240	\$ 236	\$ 221	\$ 195
Months in Reserve	4.2	4.8	4.7	4.3	3.7

Professional Fiduciaries Bureau August 15, 2018 Legislative Update

Important Legislative Dates – Spring 2018

- **August 6** - Legislature reconvenes from Summer Recess
- **August 17** - Last day for fiscal committees to meet and report bills
- **August 24** - Last day for bills to be amended on the floor
- **August 31** - Last day to pass bills. Recess begins upon adjournment
- **September 30** - Last day for the Governor to sign or veto bills

2017 Legislation Related to the Bureau

AB 1247 (Nazarian) Professional fiduciaries: prelicensing education

This bill would require applicants for professional fiduciary licensure to complete prelicensing education which includes instruction in “understanding and applying cultural and ethnic data to the process of care that includes information on the appropriate treatment of, and provision of care to, the lesbian, gay, bisexual, transgender, and intersex communities.”

August 2018 Status: In Senate, referred to the Appropriations Committee for hearing August 6.

AB 2113 (Oberholte) Estates and Trusts: Guardianships

This bill would establish that a guardianship of the estate terminates upon the death of a ward unless otherwise provided by law.

August 2018 Status: This bill was chaptered on July 9, 2018.

AB 2236 (Maienschein) Conservatorships

This bill would establish that a conservatorship terminates upon the death of a ward unless otherwise provided by law.

August 2018 Status: This bill was chaptered on July 18, 2018.

AB 2426 (Maienschein) Trustee: Power to Terminate Trust

This bill would extend a trustee’s authority to unilaterally terminate a trust from trusts not exceeding \$40,000 to trusts not exceeding \$50,000 in total value.

August 2018 Status: This bill was chaptered on July 9, 2018.

AB 2750 (Oberholte) Certified Copies of Death Records

This bill would authorize conservators of the estate or person the right to obtain certified death records from state and local registrars and county recorders. Currently, conservators of the estate or person may request a certified copy of a death certificate through a funeral establishment, but not directly with the state or local registrar or county recorder.

August 2018 Status: This bill was chaptered on July 18, 2018.

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

This bill would extend the sunset date of the Professional Fiduciaries Bureau from January 1, 2018, to January 1, 2023. This bill was amended on June 19 to include expansion of the scope of practice of fiduciaries to include representatives of a decedent's estate. The June 19 amendments also include an experience-only pathway to licensure, and a prohibition of billing clients for responding to complaints filed against the licensee with the Bureau.

August 2018 Status: In Senate, referred to the Appropriations Committee for hearing August 6.

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. This bill was amended on June 13 to include pre-decanting duties of a fiduciary and specific warnings required for the notice of decanting.

August 2018 Status: In Assembly, referred to the Appropriations Committee.

SB 931 (Hertzberg) Conservatorships: Custody Status

The bill would expand the authority of a person or their designee in charge of providing mental health treatment at a county jail, allowing that person or designee to recommend a conservatorship for an individual determined to be gravely disabled. This bill would also prohibit conservatorship investigators from failing to schedule an investigation based on the custody status of the individual subject to that investigation.

August 2018 Status: In Assembly, referred to the Appropriations Committee.

2017 Legislation Related to the Department of Consumer Affairs

AB 2138 (Chiu) Licensing Boards: Denial of Application: Revocation or Suspension of Licensure: Criminal Conviction

This bill would authorize a board to, among other things, deny, revoke, or suspend a license on the grounds the applicant or licensee has been convicted of a crime only if the applicant or licensee is presently incarcerated or if the conviction occurred within the preceding 7 years, except for serious felonies, and would require the crime to be substantially related to the qualifications, functions, or duties of the business or profession.

This bill was amended on June 20 to, among other things:

- Extend the 5-year washout period to 7-years, exempt "serious felonies" rather than "violent felonies" from the 7 year washout period;
- Eliminate the "adversely and directly" standard and revert to the "substantially related" precedent;

- Eliminate the provision specifying the changes made by the bill supersede contradictory provisions in practice acts and existing law;
- Remove the 90-day required response to petition, eliminate the prohibition on boards from taking disciplinary action if the licensee completes a diversion program;
- Remove the 2-year probation limitation; and,
- Eliminate a provision of existing law that allows a board, following a hearing requested by an applicant pursuant to subdivision (b) of Business and Professions Code section 485, to grant the license effective on the completion of licensure requirements, grant the license and immediately issue a public reproof, immediately revoke the license, stay the revocation, and impose probationary terms on the license.

August 2018 Status: In Senate, referred to the Appropriations Committee for hearing August 6.

SB 984 (Skinner) State Boards and Commissions: Representation: Women

This bill would require all appointed state boards and commissions to be comprised of a specific number of women based on the total number of board or commission members. This bill would also require the office of the Governor to collect and release aggregated demographic data provided by state board and commission applicants, nominees, and appointees.

August 2018 Status: In Assembly, referred to the Appropriations Committee.

SB 1137 (Vidak) Veterans: Professional Licensing Benefits

This bill would require the Department of Veterans Affairs and the Department of Consumer Affairs to consult with each other to take appropriate steps to increase awareness and notification for veterans and their spouses regarding professional licensing benefits.

August 2018 Status: In Assembly, referred to the Appropriations Committee.

Other Bills: Dead Bills, Bills No Longer Related to the Department, 2-Year Bills

AB 767 (Quirk-Silva): GO-Biz Information Technology

This bill was amended into a non-DCA bill on July 2. This bill would codify the Information Technology Unit within the Governor's Office of Business and Economic Development. This bill would also eliminate the current California Government On-Line to Desktops program and replace it with the Master Business License Center, which would provide resources and tools to users wishing to create their own business.

August 2018 Status: In Senate, referred to the Appropriations Committee for hearing August 6.

AB 827 (Rubio) Department of Consumer Affairs: Task force: Foreign-Trained Professionals

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.

August 2018 Status: This is a two-year bill as of 9/1/17. No further action has yet been taken on this bill.

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.

August 2018 Status: This bill remains in the Senate Appropriations Committee, referred to the suspense file.

AB 2483 (Voepel) Indemnification of public officers and employees: antitrust awards

This bill would require a public entity to pay a judgment or settlement for treble damage antitrust awards against a member of a regulatory board within the Department of Consumer Affairs for an act or omission occurring within the scope of the member's official capacity as a member of that regulatory board.

August 2018 Status: This bill failed the deadline to move out of policy committee in the second house, and is now dead.

Follow-up Information from the February 2018 Meeting

1) *AB 2113*

At the June 2018 Advisory Committee Meeting, questions were asked about the intent of this bill and why it specifies 'person' and 'estate.' On the first point, the author's office has stated this bill

"Would clarify the continuing authority and obligation of the guardian of the estate under other provisions of the Probate Code to pay last expenses, maintain custody and control, and to preserve the assets prior to delivery to the personal representative, or as ordered by the Court. The bill will help dispel confusion by financial institutions regarding a guardian's authority over estate finances after the death of the ward until a personal representative is appointed."

On the second point, differentiation between representatives of a person and of the estate appear grounded in different statutes. A guardian of the person assists in making legal decisions on behalf of a minor; a guardian of the estate is limited to assisting in the financial dealings of a minor ward. It is most probable that this bill explicitly differentiates the two in order to coherently describe the different exceptions to the conditions of termination.

2) *AB 2750*

At the June 2018 Advisory Committee Meeting, a question was asked about whether this bill would extend authority to obtain certified records to records of a pre-deceased spouse. The answer is yes.

Health and Safety Code section 7100(A)(2) indicates a 'competent surviving spouse' has the right to control the disposition of remains. Through this bill's amended Health and Safety Code section 103526(c)(3)(A), a 'competent surviving spouse' would also be an 'authorized person' for purposes of requesting certified copies of death records.

PROFESSIONAL FIDUCIARIES BUREAU
(Division 41, Title 16, California Code of Regulations)

Proposed Regulations

Article 1. General Provisions

§ 4406. Definitions.

For the purpose of the regulations contained in this division, the term:

(a) "Act" means the provisions of the Professional Fiduciaries Act, Chapter 6 (commencing with Section 6500) of Division 3 of the Business and Professions Code.

(b) "Bureau" means the Professional Fiduciaries Bureau within the Department of Consumer Affairs, established pursuant to 6510 of the Business and Professions Code.

(c) "Licensee" means a person who is licensed under the Professional Fiduciaries Act, Chapter 6 (commencing with Section 6500) of Division 3 of the Business and Professions Code as a "licensed professional fiduciary" pursuant to Section 6536.

(d) "Consumer," under the Act, means an individual with whom the licensee has established a fiduciary relationship including: a conservatee when the fiduciary is acting as a court-appointed conservator; a ward when the fiduciary is acting as a court-appointed guardian, a principal when the fiduciary is acting under a durable power of attorney, and a beneficiary when the fiduciary is acting as a trustee.

(e) Trustee as a Professional Fiduciary – A person acting as a trustee under the Act is an individual who meets the requirements of paragraph (1) and (2) and shall be licensed as a professional fiduciary unless exempt under the Act.

(1) Licensing applies to the following persons:

(A) An individual acting as trustee for a trust as defined in Section 82 of the Probate Code that includes at least one individual beneficiary, or

(B) An individual, acting on behalf of an entity appointed as trustee, to perform the functions of a trustee for a trust as defined in Section 82 of the Probate Code that includes at least one individual beneficiary.

(2) Number of non-family member trustors applies as follows:

A professional fiduciary as defined in Section 6501, includes a person acting as trustee for more than three people or more than three families or a combination of people and families that totals more than three, at the same time, who are not related to the professional fiduciary by blood, adoption, marriage, or registered domestic partnership, unless excluded under the Act. Trustors shall be counted and neither beneficiaries nor trusts shall be counted.

(f) "Advertising," or "advertisement" includes, but is not limited to, communication or dissemination by television, radio or internet, or by any print medium including newspaper or other publication or advertising device; or 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, or 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 Act, directed generally to the public.

NOTE: Authority cited: Section 6517, Business and Professions Code. Reference: Sections 6501, 6502, and 6530, Business and Professions Code.

Article 4. Code of Ethics

Section 4485. Advertising

(a) All Professional Fiduciaries licensed by the Bureau 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) 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 State of California, Department of Consumer Affairs, Professional Fiduciaries Bureau, www.fiduciary.ca.gov."

NOTE: Authority cited: Section 6517 of the Business and Professions Code. Reference: Sections 137, 6500, 6517, 6518, 6520 of the Business and Professions Code.

Article 10. Citations

4600. Authority to Issue Citations: Citation Format.

(a) The Bureau is authorized to issue citations containing orders of abatement and/or administrative fines pursuant to Sections 125.9 or 148 of the Business and Professions Code against a professional fiduciary or an unlicensed person who has committed any acts or omissions which are in violation of the Act or the regulations contained in this Division.

(b) A citation shall be issued whenever any order of abatement is issued or any fine is levied. Each citation shall be in writing and shall describe with particularity the nature and facts of the violation, including a reference to the statutes or regulations alleged to have been violated. The citation shall be served upon the individual.

(c) Each citation issued shall inform the cited person that, if he or she desires a hearing to contest the finding of a violation, that a hearing shall be requested by written notice to the Bureau within thirty (30) days of the issuance of the citation or assessment.

NOTE: Authority Cited: Sections 125.9, 148, and 6517, Business and Professions Code. Reference: Sections 124, 125.9, 148, and 6580, and 6583, Business and Professions Code.

4602. Administrative Fines for Citations.

(a) Where citations issued pursuant to Section 4600 of this Article include an assessment of an administrative fine, the fine shall be up to \$5,000 for each violation.

(b) The Bureau shall consider the factors specified in Section 4604 when determining the amount of the administrative fine.

NOTE: Authority cited: Sections 125.9, 148, and 6517, Business and Professions Code. Reference: Sections 125.9, 148, 6580, and 6583, Business and Professions Code.

4604. Citation Factors.

(a) The following factors shall be considered when determining the amount of an administrative fine:

- (1) The good or bad faith exhibited by the cited person.
- (2) The nature and severity of the violation.
- (3) Evidence that the violation was willful or not.
- (4) History of previous violations.
- (5) The extent to which the cited person has cooperated with the Bureau.
- (6) The extent to which the cited person has mitigated or attempted to mitigate any damage or injury caused by his or her violation.
- (7) Extenuating circumstances as justice may require.
- (8) A finding by a court in a matter related to the violation.

(b) The sanctions authorized under this section shall be separate from, and in addition to, any other civil or criminal remedy.

(c) Any costs related to a citation issued pursuant to Section 4600, including but not limited to, the payment of the fine levied or costs related to the defense of, or compliance with, an order issued in the citation, shall not be borne by the consumer served by the licensee in the matter.

NOTE: Authority cited: Sections 125.9, 148, and 6517, Business and Professions Code. Reference: Sections 125.9, 148, 6580, and 6583, Business and Professions Code.

4606. Contest of Citations; Informal Conference.

(a) In addition to requesting an administrative hearing as provided for in subdivision (b)(4) of Section 125.9 of the Business and Professions Code, the cited person may request an informal conference to review the acts charged in the citation. A request for an informal conference shall be ~~made in writing, requested by written notice to the Bureau within ten (10) days of receipt of the citation, after the citation has been served upon the individual.~~

(b) The Bureau shall hold, within sixty (60) days from the receipt of the request, an informal conference with the cited person. At the conclusion of the informal conference, the Bureau may affirm, modify or dismiss the citation, including any fine levied or order of abatement issued. The Bureau shall state in writing the reasons for the action and transmit a copy of the findings and decision to the cited person. The decision shall be deemed to be a final order with regard to the citation issued, including any administrative fine levied or order of abatement.

(c) If the citation, including any fine levied or order of abatement, is modified, the citation originally issued shall be considered withdrawn and a new citation issued. ~~If the cited person desires a hearing to contest the new citation, he or she shall make a request in writing, within thirty (30) days of receipt of the informal conference decision, to the Bureau. The hearing shall be conducted as provided for in subdivision (b)(4) of Section 125.9. A cited person may not request an informal conference for a citation which has been modified following an informal conference.~~

(d) If the cited person desires a hearing after an informal conference, a hearing shall be requested by written notice to the Bureau within thirty (30) days of receipt of the informal conference decision. The hearing shall be conducted as provided for in subdivision (b)(4) of Section 125.9. A cited person may not request an informal conference for a citation which has been modified following an informal conference.

NOTE: Authority cited: Section 125.9, 148, and 6517, Business and Professions Code and Section 11445.20 of the Government Code. Reference: Sections 124, 125.9, 148, 6580, and 6583, Business and Professions code and Section 11445.20 of the Government Code

4608. Compliance with Citation.

The failure of a licensee to comply with a citation containing an assessment of administrative fine, an order of abatement or both an administrative fine and an order of abatement after the citation is final and has been served in accordance with the provisions of Section 11505(c) of the Government Code shall constitute a ground for revocation or suspension of a license.

NOTE: Authority cited: Sections 125.9 and 6517, Business and Professions Code. Reference: Sections 125.9, 6580 and 6583, Business and Professions Code.

4610. Compliance with Order of Abatement.

(a) The time allowed for abatement of a violation shall begin the first day after the order of abatement has been served or received. If a cited person who has been issued an order of abatement is unable to complete the correction within the time set forth in the citation because of conditions beyond his or her control after the exercise of reasonable diligence, the person cited may request an extension of time from the Bureau in which to complete the correction. Such a request shall be in writing and shall be made within the time set forth for abatement.

(b) When an order of abatement is not contested or if the order is appealed and the person cited does not prevail, failure to abate the violation charged within the time specified in the citation shall constitute a violation and failure to comply with the order of abatement. Failure to timely comply with an order of abatement or failure to pay the fine included in the citation within the time allowed may result in disciplinary action being taken by the Bureau or other appropriate judicial relief being taken against the person cited.

NOTE: Authority cited: Sections 125.9, 148, and 6517, Business and Professions Code. Reference: Sections 125.9, 148, 6580 and 6583, Business and Professions Code.