

**Professional Fiduciaries Bureau
Advisory Committee Meeting**

Wednesday, November 7, 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
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 – Tracy Montez, Division Chief
- 5) Discussion and Approval of the Advisory Committee Meeting Minutes from August 15, 2018
- 6) Update from the Director's Office – DCA Executive Staff
- 7) Budget Report – DCA Budget Analyst
 - Budget Overview and Update
- 8) Legislative Update and Discussion – DCA Legislative Analyst
 - 2018 Legislation Related to the Bureau
 1. AB 1247 (Nazarian) Professional Fiduciaries: Prelicensing and Renewal or Restoration: Education
 2. AB 3144 (Low) Professional Fiduciaries Bureau
 3. SB 909 (Hertzberg) Uniform Trust Decanting Act
 4. 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 1137 (Vidak) Veterans: Professional Licensing Benefits
 - Previously Discussed 2018 Legislation Related to the Bureau
 1. AB 2113 (Obernolte) Estates and Trusts: Guardianships
 2. AB 2236 (Maienschein) Conservatorships
 3. AB 2426 (Maienschein) Trustee: Power to Terminate Trust
 4. AB 2750 (Obernolte) Certified Copies of Death Records
- 9) Bureau Updates – Tracy Montez, Division Chief
 - Application, Licensing and Enforcement Statistics
 - Outreach Events
 - E-Newsletter
- 10) Proposed Rulemakings – Tracy Montez, Division 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
 - Update Regarding 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

- Update Regarding Proposed Amendments to Citation Sections 4600 and 4606 of Article 10 of Title 16 of the California Code of Regulations

- 11) Future Agenda Items
- 12) Future Meeting Dates
 - Wednesday, January 9, 2019
 - Wednesday, May 29, 2019
 - Wednesday, August 14, 2019
 - Wednesday, November 13, 2019
- 13) Public Comment on Items Not on the Agenda (See "Note" below)
- 14) 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.

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**Professional Fiduciaries Bureau (Bureau)
Advisory Committee Meeting
Wednesday, August 15, 2018**

Meeting Minutes

Committee Members Present

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

Committee Members Absent

- Jenny Chacon

Department of Consumer Affairs (DCA) Staff Present

- Rebecca May, Bureau Chief
- Angela Cuadra, Bureau Program Analyst
- Fred Chan-You, Department of Consumer Affairs (DCA) Legal Counsel

- 1) Call to Order – Ms. To called the meeting to order at 10:14 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, Mr. King Gee, 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 six members present.
 - 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 and Mr. James Counts introduced himself from the Encino 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 5) Discussion and Possible Approval of the Advisory Committee Meeting Minutes from June 20,
 2 2018 –
 3 Ms. Federizo motioned to approve the minutes as written. Ms. Thomson seconded the motion. A
 4 vote by roll call was made: Ms. de Vries, Ms. Federizo, Mr. Gee, Ms. Akel, Ms. Thomson, and Ms.
 5 To were in favor. Ms. Chacon was absent for the vote. The motion carried with six votes.

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 7 Public Comment: None.

8
 9 6) Updates from the Director's Office –
 10 Ms. Karen Nelson, Assistant Deputy Director of Board and Bureau Services, presented updates
 11 from the Director's Office.
 12 On June 25th the Director held his first board member and advisory committee leadership
 13 conference call. Another call will be held before the end of the year. On August 6th the Director's
 14 Quarterly Meeting was held. The next meeting will be held on October 29th. Licensing and
 15 enforcement workgroups were held this month. Finally, the DCA Future Leadership Development
 16 program will kick off in September.

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 18 Public Comment: None.

19
 20 7) Bureau Updates –
 21 • Statistics –

Two-Year Fiscal Year Statistics Comparison	As of June 2017	As of June 2018
New Licenses	63	57
Active Licenses	727	736
Total Licenses Issued	995	1,052
Applications Received	99	126
Accusations Filed	4	5
Citations Issued	4	13
Complaints Received	120	145
Complaints Closed	166	142
Complaints Pending	42	23
Average Days to Close	260	159

22
 23 Mr. Gee asked for a summary of complaint type and Ms. May replied mainly care of service,
 24 displeased with service, and most result in no action. Ms. Thomson asked what the four Attorney
 25 General (AG) cases involve and Ms. May replied these were citations which a response was not
 26 received.

27
 28 • Outreach events –
 29 Ms. May stated there were no outreach events since our last meeting, but there are a couple
 30 coming up in Kern county.

31
 32 • E-Newsletter –
 33 The newsletter has been approved by our legal office and is now with the publications office. The
 34 newsletter will be going out soon.

35
 36 • Bureau's 2018-2022 Strategic Plan –
 37 Ms. May stated the Bureau staff has been completing goals and read through the goals which are
 38 completed to date.

1 Ms. de Vries asked that the Bureau resurrect the plan which was created from an education
2 subcommittee several years ago. Ms. May stated the Bureau will pull the plan to use in the
3 upcoming subcommittee.

4
5 Public Comment: None.

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7 8) Budget Report –

8 Mr. Matt Nishimine stated there are no changes and nothing to be concerned about with the
9 Bureau's budget at this time.

10 Mr. Gee asked for the reason for the structural imbalance and Mr. Nishimine stated this is because
11 projections are projected as flat when there will more likely be growth of approximately 2%. Mr.
12 Gee also asked what would happen if the Bureau became insolvent and Mr. Nishimine stated
13 prior to that happening the Bureau would look at cutting spending, raising fees, or cutting
14 personnel. Ms. Thomson asked why the AG allotment changes and Mr. Nishimine stated the
15 Bureau has not used the entire allotment for this year. Mr. Nishimine stated for state budgeting
16 purposes, the Bureau is required to stay within the bottom line.

17
18 Public Comment: None.

19
20 9) Legislative Update –

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

22 • 2018 Legislation Related to the Bureau

23 Mr. Millington reviewed the handout presented in the materials. There were no comments
24 made during the review of bills related to the Bureau.

25
26 • 2018 Legislation Related to the Department

27 Mr. Millington reviewed the handout presented in the materials. The following comments
28 were made during the bill review of bills related to DCA:

- 29
30 1. AB 2138 – Ms. Thomson asked who makes the decision if the conviction is
31 substantially related and Mr. Millington replied the bureau would make this
32 decision. Ms. Thomson also asked if there will be a list and Ms. May replied the
33 decisions would be made on a case by case basis.
34 2. SB 1137 – Ms. Thomson asked how communication will be facilitated and Mr.
35 Millington stated DCA would determine how the consulting will be done.

36
37 • Other Bills: Dead Bills, Bills No Longer Related to the Department, and 1-Year Bills

38 Mr. Millington reviewed the handout presented in the materials. There were no comments
39 made during the review of dead bills.

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41 Public Comment: Mr. Jerry Desmond, Legislative Advocate for Professional Fiduciary
42 Association of California (PFAC) stated regarding AB 3144, PFAC supports to extend the
43 Bureau, experience pathway, expansion of scope of practice to include personal representatives
44 of decedent estates, and clarification of annual reporting requirements. PFAC is not comfortable
45 with the prohibition of charging clients when responding to a complaint with the Bureau but will
46 not oppose the bill. PFAC will work with Assemblymember Low on this point. Regarding AB
47 1247, PFAC is in support and already has diversity efforts in place.

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49 10) Proposed Rulemakings -

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- Update regarding Inactive/Retired License Proposed Regulation – Sections 4560-4580 of Article 8 of Title 16 of the California Code of Regulations
Ms. May stated this is in pre-review process with DCA.
- Update and discussion regarding Client Notification Proposed Regulation – Section 4640 of Article 12 of Title 16 of the California Code of Regulations
Ms. May stated this is in pre-review process with DCA.
- 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
Mr. Chan-You stated this regulation will provide a definition and requirements to advertise as a licensed professional fiduciary.
- Introduction and Discussion of Proposed Amendments to Citation Sections 4600 and 4606 of Article 10 of Title 16 of the California Code of Regulations
Mr. Chan-You stated this amendment is to clarify the section regarding informal conference.

Public Comment: None.

11) Vote for Formation of Apprenticeship Subcommittee

Ms. Akel motioned to form an apprenticeship subcommittee composed of two members. Ms. Federizo seconded the motion. A vote by roll call was made: Ms. de Vries, Ms. Federizo, Mr. Gee, Ms. Akel, Ms. Thomson, and Ms. To were in favor. Ms. Chacon was absent for the vote. The motion carried with six votes.

Public Comment: None.

12) Future Agenda Items

- None.

Public Comment: None.

13) Future Meeting Dates

-Wednesday, November 7, 2018
There were no conflicts mentioned by any of the committee members.

Public Comment: None.

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

15) Adjournment – The meeting was adjourned at 11:26 a.m.

BUDGET REPORT
Expenditure Projection
2018-19 - FM 2

Object Description	FY 2016-18	FY 2016-17	FY 2017-18	FY 2018-19				
	Actual EXPENDITURES Month 13	Actual EXPENDITURES Month 13	Actual EXPENDITURES Month 12	Budget Allotment	Current Year EXPENDITURES 8/31/18	Percent Spent	Projections to Year End	Unencumbered Balance
PERSONNEL SERVICES								
Salary & Wages (Staff)	124,868	110,184	117,407	108,000	20,806	19%	124,836	(16,836)
Statutory Exempt	85,452	6,818	93,600	77,000	16,224	21%	97,344	(20,344)
Temp Help (Seasonal)	25,711	37,258	28,759	22,000		0%	22,000	0
Committee Members	1,800	2,500	2,000				2,000	(2,000)
Overtime		66						
Staff Benefits	113,815	87,955	97,703	112,000	16,360	15%	98,160	13,840
TOTALS, PERSONNEL SVCS	351,646	224,781	339,469	319,000	53,390	17%	344,340	(25,340)
OPERATING EXPENSE AND EQUIPMENT								
General Expense	1,658	2,305	153	5,000		0%	500	4,500
Fingerprint Reports		59						
Minor Equipment	1,335							
Printing	3,391	3,843	1,775	1,000		0%	2,000	(1,000)
Communication	336	359	431	1,000		0%	500	500
Postage	2,467	1,190	2,191	2,000		0%	2,000	0
Insurance		3	885					
Travel In State	7,362	2,972	2,683	4,000		0%	3,000	1,000
Training	350	10		1,000		0%	0	1,000
Facilities Operations	37,275	39,521	40,114	32,000	6,375	20%	40,000	(8,000)
C&P Services Interdept.			7,542	3,000		0%	3,000	0
C&P Services - External	394	2,302						
DEPARTMENTAL SERVICES								
Office of Information Services Pro Rata	21,215	19,276	35,000	39,000	6,500	17%	39,000	0
Administration Pro Rata	31,996	37,853	41,000	43,000	7,167	17%	43,000	0
Interagency Services with OPES		100,060	4,000	4,000	667	17%	4,000	0
DOI - Special Ops Unit Pro Rata	983	920	1,000	1,000	167	17%	1,000	0
Communication Prorata	27,000	14,446	209	2,000	333	17%	2,000	0
Public Policy Review Division Pro Rata	59,281	654	22,000	20,000	3,333	17%	20,000	0
INTERAGENCY SERVICES:								
Consolidated Data Center	1,403		1,090					
Information Technology	38,376			1,000		0%	1,000	0
EXAM EXPENSES:								
Exam Supplies	164		118					
ENFORCEMENT:								
Attorney General	31,300	25,918	25,934	66,000	8,680	13%	30,000	36,000
Office of Admin. Hearings	16,140	2,181	6,245				6,245	(6,245)
Evidence / Witness Fees	573						500	(500)
TOTALS, OE&E	282,999	254,437	192,370	225,000	33,222	15%	197,745	27,255
TOTAL EXPENSES	634,645	479,218	531,839	544,000	86,612	16%	542,085	1,915
Scheduled/Unsch Reimbursements	(1,000)	(1,000)	(1,000)	(1,000)			(1,000)	
NET APPROPRIATION	633,645	478,218	530,839	543,000	86,612	16%	541,085	1,915
							Surplus/(Deficit):	0%

3108 - Professional Fiduciary Fund Analysis of Fund Condition

(Dollars in Thousands)

Prepared 11/1/18

Budget Act 2018 with FM 12 Actuals

	ACTUAL 2017-18	CY 2018-19	BY 2019-20
BEGINNING BALANCE	\$ 220	\$ 221	\$ 250
Prior Year Adjustment	\$ -	\$ -	\$ -
Adjusted Beginning Balance	\$ 220	\$ 221	\$ 250
 REVENUES AND TRANSFERS			
Revenues:			
4121200 Delinquent fees	\$ 3	\$ 3	\$ 3
4127400 Renewal fees	\$ 454	\$ 455	\$ 455
4129200 Other regulatory fees	\$ 6	\$ 10	\$ 10
4129400 Other regulatory licenses and permits	\$ 102	\$ 126	\$ 126
4163000 Income from surplus money investments	\$ 3	\$ 2	\$ 1
Totals, Revenues	\$ 568	\$ 596	\$ 595
 Totals, Resources	\$ 788	\$ 817	\$ 845
 EXPENDITURES			
Disbursements:			
1111 Department of Consumer Affairs Program Expenditures (State Operations)	\$ 532	\$ 543	\$ 554
9892 Supplemental Pension Payments (State Operations)	\$ -	\$ 9	\$ 9
9900 Statewide General Administrative Expenditures (Pro Rata) (State Operations)	\$ 35	\$ 15	\$ 35
Total Disbursements	\$ 567	\$ 567	\$ 598
 FUND BALANCE			
Reserve for economic uncertainties	\$ 221	\$ 250	\$ 247
 Months in Reserve	4.4	5.0	4.9

Professional Fiduciaries Bureau November 7, 2018 Legislative Update

Important Legislative Dates – Winter 2018

- **December 3, 2018** – The Legislature Convenes the 2019-2020 Regular Session
- **January 1, 2019** – Statutes take effect unless otherwise noted

2018 Legislation Related to the Bureau

AB 1247 (Nazarian) Professional fiduciaries: prelicensing education

This bill would have required licensees and applicants for licensure with the Professional Fiduciaries Bureau to receive instruction in understanding and applying cultural and ethnic data to the process of care including, but not limited to, information on the appropriate treatment and care of the lesbian, gay, bisexual, transgender, and intersex communities.

November 2018 Status: This bill was vetoed on September 22, 2018. The Governor stated in his veto message “while I understand and support cultural competence, I do not believe the mandated continuing education requirements of this bill are warranted.”

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

This bill extends the sunset date of the Professional Fiduciaries Bureau from January 1, 2019 to January 1, 2023. This bill also expands the definition of professional fiduciary to include certain personal representatives of a decedent’s estate, establishes an experience-only pathway to licensure, and bars professional fiduciaries from charging a client for responding to complaints filed against the fiduciary with the Professional Fiduciaries Bureau.

November 2018 Status: This bill was chaptered on September 22, 2018.

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.

November 2018 Status: This bill was chaptered on September 14, 2018.

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.

November 2018 Status: This bill was chaptered on September 17, 2018.

2018 Legislation Related to the Department of Consumer Affairs

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

Beginning July 1, 2020, this bill restricts the discretion of programs within the Department of Consumer Affairs in using prior criminal history as grounds for licensing determinations and establishes new prohibitions relating to the denial, suspension, and revocation of licensure. Under this bill, programs may not use acts involving dishonesty, fraud, or deceit that did not result in a conviction as a basis for the denial of a license. Other revisions include the adoption of a seven-year limitation on convictions eligible for licensure denial, subject to specified exemptions, and a ban on requiring applicants to self-disclose prior convictions unless the application is made for a listed license type that does not require a fingerprint background check. Finally, this bill requires Department programs, as specified, to track data relating to licensure denials, to publish that data on its website, and submit an annual report to the Legislature, among other provisions.

November 2018 Status: This bill was chaptered on September 30, 2018.

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.

November 2018 Status: This bill was chaptered on September 14, 2018.

Previously Discussed 2018 Legislation Related to the Bureau

AB 2113 (Obernolte) 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.

November 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.

November 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.

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

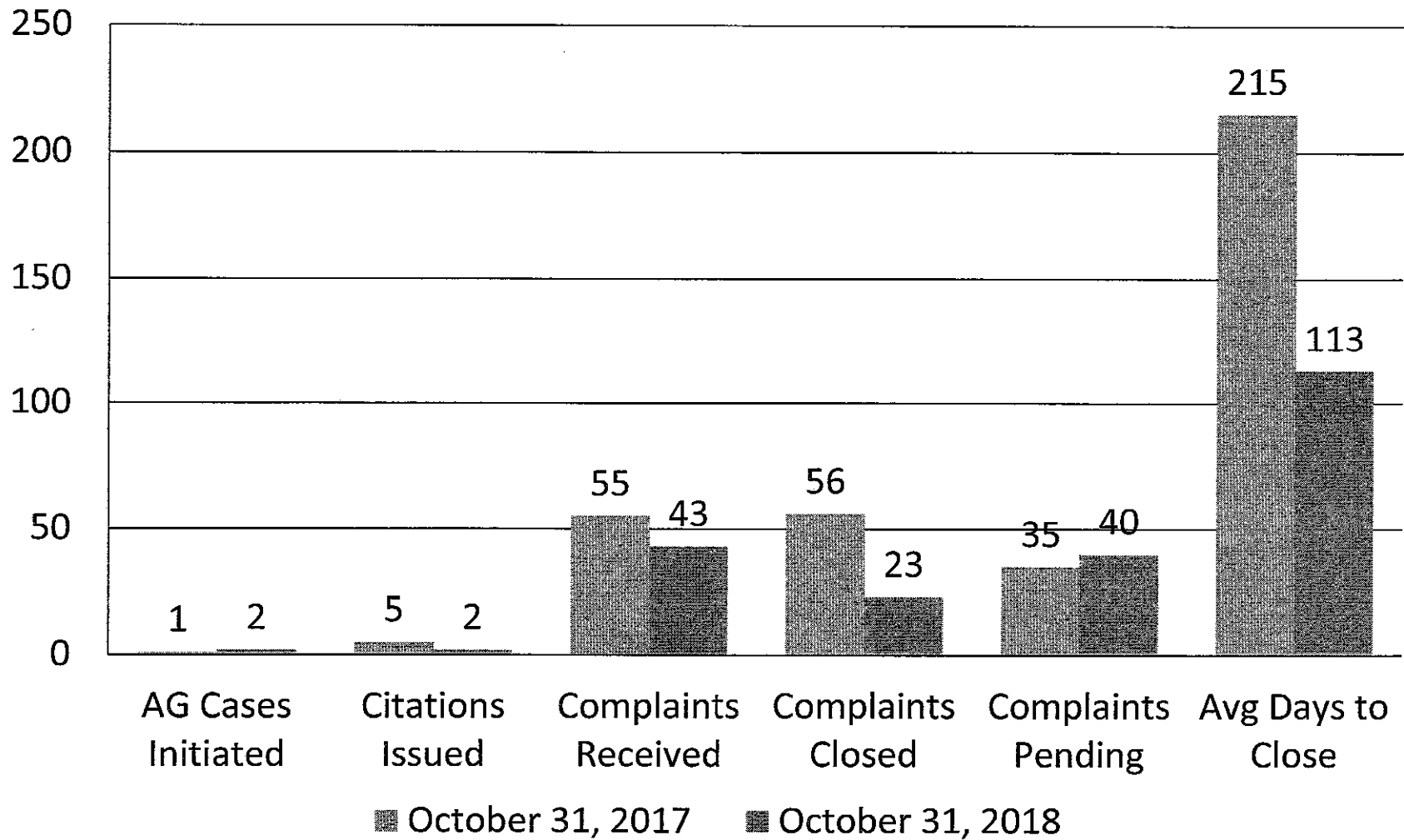
AB 2750 (Obernolte) Certified Copies of Death Records

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,

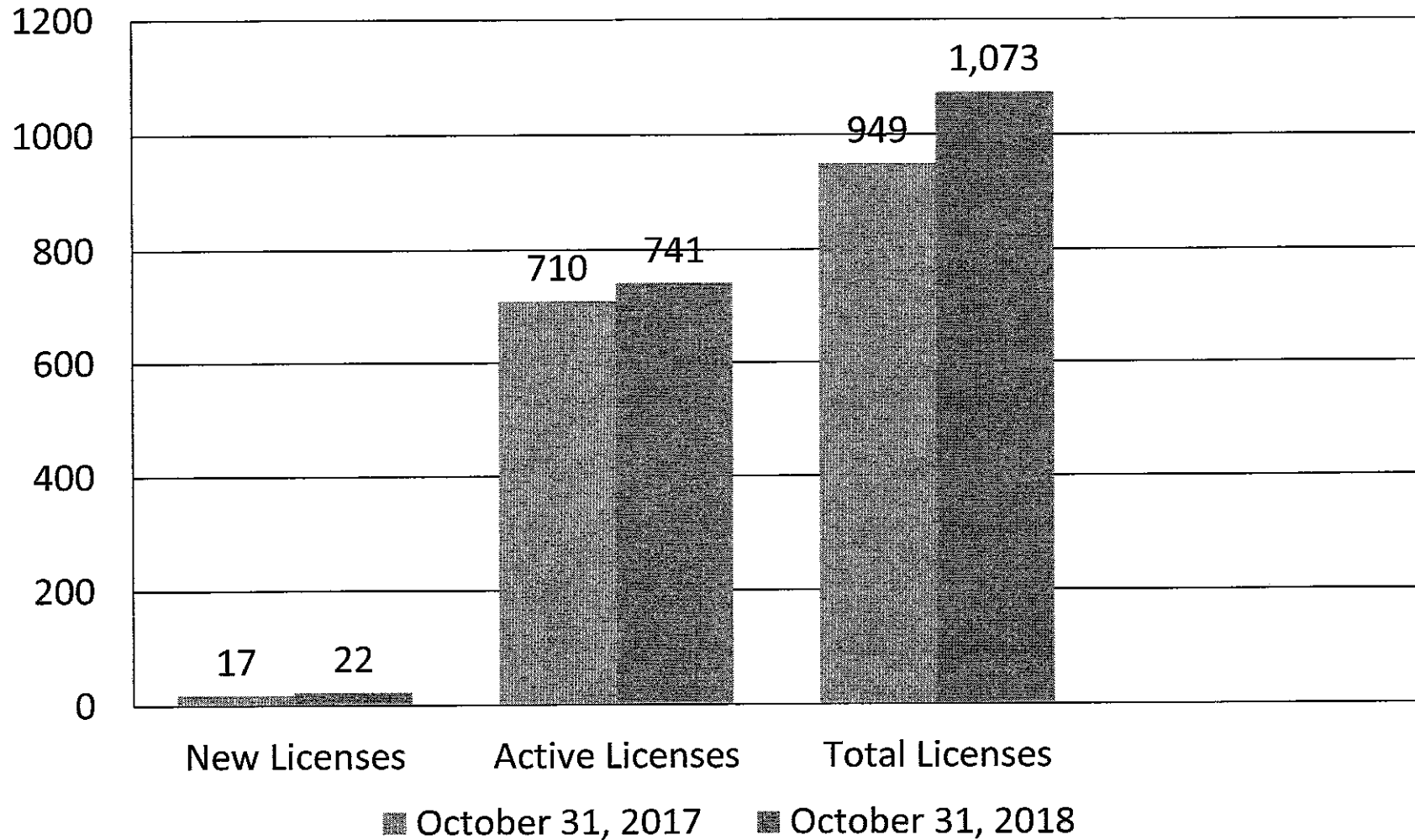
conservators of the estate or person may request a certified copy of a death certificate through a funeral establishment, but not directly with the state or local registrar or county recorder.

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

Complaint Statistics Two Fiscal Year Comparison



Licensing Statistics Two Fiscal Year Comparison



OUTREACH EVENTS

Since the last Advisory meeting

- PFAC Kern County Chapter Meeting in Bakersfield on Wednesday, October 10, 2018
- Estate Planning and Probate Section of the Kern County Bar Association in Bakersfield on Wednesday, October 10, 2018
- Dixon Senior Resource Fair in Dixon on October 13, 2018
- 2018 Yolo County Senior Resource and Crime Prevention Fair in Woodland on October 26, 2018

Upcoming Events

- No upcoming events

§4640. Client Notification.

- (a) Every licensee engaged in licensed activity as a professional fiduciary, shall provide notice in a manner reasonably calculated to be received by the licensee's clients, of the fact that the licensee is licensed by the California Professional Fiduciaries Bureau (Bureau). For purposes of this section, "licensee" means an individual who is licensed by the Bureau and "client" means an individual who is receiving professional fiduciary services from the licensee. Notice shall be provided by one of the following methods:
- (1) Written notice by mail, in person, or by electronic correspondence, as described in subsection (b), to the client or to any individual the licensee reasonably deems sufficient to constitute notice to the client.
- (2) Written notice, as described in subsection (b), in at least 12-point type either in:
- (i) all official written or electronic correspondence to the client or to any individual the licensee reasonably deems sufficient to constitute notice to the client, or
 - (ii) on a contract for services where the notice is placed immediately above the signature line for the client.
- (b) The written notice, as required in subdivision (a), shall consist of the following language:

NOTIFICATION TO CONSUMERS

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

NOTE: Authority cited: Sections 138 and 6517 of the Business and Professions Code. Reference: Sections 138, 6530, 6532 and 6533 of the Business and Professions Code.

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, electronic transmission, 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 the licensee is 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) This section shall take effect on January 1, 2020.

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