

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 (Bureau)
Advisory Committee Meeting
Wednesday, May 29, 2019**

Meeting Minutes

Committee Members Present

Hang Le To, Chair
Kathleen Thomson, Vice Chair
Wendy Hatch
James Moore

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 10:00 a.m. and stated the meeting date and location.
- 2) Roll Call & Establishment of Quorum – Ms. Cuadra called roll. Committee members Ms. Hang Le To, Ms. Kathleen Thomson, Ms. Wendy Hatch, and Mr. James Moore were present at meeting location 1747 N. Market Blvd, 1st Floor Hearing Room, Sacramento, CA 95834. Mr. King Gee was absent. A quorum was established with four members present.
- 3) Advisory Committee, Bureau Chief, Staff and Legal Counsel Introductions – Committee Members introduced themselves.

Public Comment: None.

- 4) Reading of the Professional Fiduciaries Bureau Mission Statement – Ms. May read the Bureau's mission statement.

Public Comment: A public commenter stated the Bureau allows fiduciaries to use client funds to defend themselves and hold funds from clients preventing them from being able to defend their families.

5) Discussion and Possible Approval of the Advisory Committee Meeting Minutes from January 9, 2019 –

Ms. Thomson motioned to approve the minutes as written. Mr. Moore seconded the motion. A vote by roll call was made: Ms. To, Ms. Thomson, Ms. Hatch, and Mr. Moore were in favor. Mr. Gee was absent for the vote. There was no discussion from the committee members and the motion carried with four votes.

Public Comment: None.

6) Update from the Director's Office –

Ms. Karen Nelson, Assistant Deputy Director, Office of Board and Bureau Services, reported that Director Dean Grafilo's last day with the department was April 19th and the Governor's office is working toward identifying a successor. DCA plans to hold a Director's quarterly meeting on June 3rd which will be led by Chief Deputy Director Chris Schultz.

In January, the DCA Office of Information Services, announced the launch of a public enforcement and licensing data portal on the department's website. Additionally, the department launched the Future Leadership Development (FLD) program last year to grow new DCA leaders and there were eight graduates on May 22nd. Ms. Nelson thanked Ms. May for being a part of the FLD steering committee.

Ms. Hatch asked how to locate the public portal and Ms. Nelson answered at www.dca.ca.gov and there is a tab at the top of the page labeled "data."

Ms. May asked Ms. Nelson to list the trainings which are mandatory for 2019 and Ms. Nelson stated she would send a link to Ms. May.

Public Comment: None.

7) Budget Report –

Mr. Paul McDermott, DCA Budget Analyst, stated the budget is stable with a positive bottom line of \$48,900 and shows a solid four and a half months of reserve.

Ms. Hatch asked which category shows the fines and fees on this report. Ms. Cuadra stated these fees appear under other regulatory fees. Ms. Thomson asked why there is an increase in delinquency fees and Ms. Cuadra replied that as the number of licenses increases, the projection of delinquent fees increase respectively.

Public Comment: None.

8) Legislative Update and Discussion –

Mr. Alexander Millington, DCA Legislative Affairs Analyst, stated this is the first update of 2019/20 legislative year and a bit more involved. Mr. Millington read the remaining deadline dates for the 2019 legislative year.

There is no legislation currently related to the operation of the Bureau. The remaining bills discussed were not specifically related to the Bureau but are elder issues.

Ms. Thomson asked if AB 1378 relates to standby of a temporary guardian pending appointment. Mr. Millington answered that the standby guardianship in this bill does not appear to be limited in term.

Ms. Thomson asked for the specified conditions listed in AB 496. Mr. Millington will present AB 496 specified conditions at the next meeting.

Ms. Hatch asked about a bill on how to list that professional fiduciaries are licensed. Ms. May answered that this is a pending regulation.

Public Comment: Mr. Desmond stated SB 303 as amended on April 30th is no longer a concern to the Professional Fiduciaries Association of California (PFAC.)

Ms. Linda Kincaid, Coalition for Elder and Disability Rights, stated they were the sponsor of SB 303. Ms. Kincaid asked the Bureau to support SB 303.

Ms. Gist shared the story of her mother under the care of a licensee and suggested the Bureau watch the movie "The Guardian."

Mr. Richard Calhoun stated the Bureau should require professional fiduciaries to only put clients in licensed facilities.

Ms. Laura Holmes shared the story of her mother under the care of a licensee and asked what actions are taken when a complaint is filed.

Mr. Chan-You stated these comments are outside the scope of the legislative presentation and may be addressed later in the agenda.

9) Bureau Updates – Ms. May presented the statistics as of April 30, 2019.

- Application Licensing and Enforcement Statistics –

2019 Statistics	As of April 30, 2019
New Licenses	54
Active Licenses	747
Total Licenses Issued	1,105
New Applications Received	100
AG Cases Initiated	4
Citations Issued	14
Complaints Received	99
Complaints Closed	66
Complaints Pending	52
Average Days to Close	125

- Outreach – Ms. May read the list of outreach events since the last meeting and reported there are no upcoming events. Ms. May asked the committee to inform the Bureau of any outreach events by email.

- E-Newsletter – The newsletter went out to the interested parties list in February and it can be found on the Bureau’s website. Ms. May requested topic ideas or article submissions for future newsletters.

Ms. Thomson asked if the 54 new licensees is consistent with other years. Ms. Cuadra stated it is usually about 80 per year. Ms. Thomson also asked if any of the AG cases have been settled and how? Ms. May stated she did not have that information available. Ms. Thomson also stated that it is great the Bureau has been able to travel to all of California this year.

Public Comment: Mr. Calhoun stated the statistics need to be clearer for the public. Ms. Kincaid commented and asked for clarification on complaints which she has filed with the Bureau. Ms. May stated she cannot comment on specific complaints. Mr. Chan-You stated the investigation process is confidential and recommended the Bureau not provide that information.

10) Proposed Rulemakings –

Ms. May reported no new updates to the pending regulations. These regulations are all under pre-review in the DCA legal office. The first and third bullet have been placed on a temporary hold while the department works on implementation of AB 2138.

- Update regarding Inactive/Retired License Proposed Regulation – Sections 4560-4580 of Article 8 of Title 16 of the California Code of Regulations
- Update and discussion regarding Client Notification Proposed Regulation – Section 4640 of Article 12 of Title 16 of the California Code of Regulations
- Update 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
- Announcement of Proposed Addition of Section 4521 and Amendments to Sections 4520, 4522, 4620, and 4622 of Article 4 of Title 16 of the California Code of Regulations

Public Comment: None.

11) Discussion of Future Rulemaking Proposals

Ms. May stated this item reflects a request from the public at the last meeting. Ms. Hatch stated she had a couple of questions and concerns. After Ms. Hatch had presented some of her concerns, it was decided she would send a copy of her suggestions to the Bureau for review and a possible discussion at a future meeting.

Public Comment: Mr. Calhoun asked for rulemaking to be considered for licensees to report how many cases under supervision, a physical address of record, how the

professional fiduciary charges, and that the licensee report the specific courses completed for renewal.

Ms. Gist asked that the licensees be required to take a course in diversity and cultural education.

Ms. Kincaid asked for regulation to prohibit licensees for charging for litigation.

12) Future Agenda Items –

-List of specified conditions in SB 496

-Clearer statistical report

Public Comment: Mr. Calhoun asked the Bureau to go back to previous minutes from November and January and add the items that have not been addressed yet, to not redact public information such as case names, and to look at billable hours of licensees.

13) Future Meeting Dates

-Wednesday, August 14, 2019

-Wednesday, November 13, 2019

Committee members did not mention any scheduling conflicts.

Public Comment: None.

14) Election of 2019 Chair and Vice Chair –

Chair position

Ms. Thomson nominated Ms. Hang Le To for the position of committee chair. Ms. Hatch nominated Ms. Thomson for the position of committee chair. Ms. May stated Ms. To is in her grace period and Ms. To declined the nomination. Ms. Thomson accepted the nomination for chair. The nomination was seconded by Mr. Moore. A vote by roll call was made: Ms. To, Ms. Hatch, Mr. Moore, Ms. Thomson were in favor. Mr. Gee was absent for the vote. The motion carried with four votes.

Vice Chair position

Ms. To nominated Ms. Hatch for the position of committee vice chair, the nomination was seconded by Ms. Thomson. A vote by roll call was made: Ms. To, Ms. Hatch, Mr. Moore, Ms. Thomson were in favor. Mr. Gee was absent for the vote. The motion carried with four votes.

Public Comment: None.

15) Public Comment on Items Not on the Agenda –

Ms. To explained the purpose of the public comment on items not on the agenda and that there will be a two-minute limit for each commenter.

The following comments were made by the public:

- Concerns about response time to emails.

- The Bureau should establish a focus on its mission statement and discuss it on an agenda item.

- Concerns about transparency and that complaint information should be made public.

- Concerns about the relationship between the Bureau and its licensees and if the Bureau is aware of what the licensees do as far as job duties.

- Stated licensees should not serve on the committee.

16)Adjournment – The meeting was adjourned at 11:33 a.m.

3108 - Professional Fiduciary Fund

Analysis of Fund Condition

Prepared 7.30.2019

(Dollars in Thousands)

2019-20 Budget Act

	PY 2017-18	PY 2018-19	Budget Act BY 2019-20	BY+1 2020-21
BEGINNING BALANCE	\$ 220	\$ 220	\$ 194	\$ 206
Prior Year Adjustment	\$ -	\$ -	\$ -	\$ -
Adjusted Beginning Balance	\$ 220	\$ 220	\$ 194	\$ 206
REVENUES AND TRANSFERS				
Revenues:				
4121200 Delinquent fees	\$ 3	\$ 2	\$ 3	\$ 3
4127400 Renewal fees	\$ 454	\$ 433	\$ 479	\$ 479
4129200 Other regulatory fees	\$ 6	\$ 17	\$ 5	\$ 5
4129400 Other regulatory licenses and permits	\$ 101	\$ 102	\$ 133	\$ 133
4163000 Income from surplus money investments	\$ 3	\$ 6	\$ 4	\$ 3
Totals, Revenues	\$ 567	\$ 560	\$ 624	\$ 623
Totals, Revenues and Transfers	\$ 567	\$ 560	\$ 624	\$ 623
Totals, Resources	\$ 787	\$ 780	\$ 818	\$ 829
EXPENDITURES				
Disbursements:				
1111 Department of Consumer Affairs Program Expenditures (State Operations)	\$ 532	\$ 562	\$ 574	\$ 591
9892 Supplemental Pension Payments (State Operations)	\$ -	\$ 9	\$ 12	\$ 12
9900 Statewide General Administrative Expenditures (Pro Rata) (State Operations)	\$ 35	\$ 15	\$ 26	\$ 26
Total Disbursements	\$ 567	\$ 586	\$ 612	\$ 629
FUND BALANCE				
Reserve for economic uncertainties	\$ 220	\$ 194	\$ 206	\$ 200
Months in Reserve	4.2	3.8	3.9	3.7

NOTES:

- A. ASSUMES WORKLOAD AND REVENUE PROJECTIONS ARE REALIZED FOR BY + 1 AND ON-GOING
- B. ASSUMES APPROPRIATION GROWTH OF 3% PER YEAR IN BY + 1 AND ON-GOING
- C. ASSUMES INTEREST RATE OF 1.5%

BUDGET REPORT
Expenditure Projection
2018-19 - FM 12

Object Description	FY 2015-16	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 6/30/2019	Percent Spent	Projections to Year End	Unencumbered Balance
PERSONNEL SERVICES								
Salary & Wages (Staff)	124,868	110,184	117,407	117,000	127,157	109%	127,157	(10,157)
Statutory Exempt	85,452	6,818	93,600	77,000	93,522	121%	93,522	(16,522)
Temp Help (Seasonal)	25,711	37,258	28,759	22,000	0	0%	0	22,000
Committee Members	1,800	2,500	2,000	0	1,400	0%	1,400	(1,400)
Overtime	0	66	0	0	0	0%	0	0
Staff Benefits	113,815	67,955	97,703	121,000	102,921	85%	102,921	18,079
TOTALS, PERSONNEL SVCS	351,646	224,781	339,469	337,000	325,000	96%	325,000	12,000
OPERATING EXPENSE AND EQUIPMENT								
General Expense	1,658	2,305	153	5,000	546	11%	600	4,400
Fingerprint Reports	0	59	0	0	49	0%	49	(49)
Printing	3,391	3,843	1,775	1,000	0	0%	0	1,000
Communication	336	359	431	1,000	1,842	184%	1,842	(842)
Postage	2,467	1,190	2,191	2,000	949	47%	1,036	964
Insurance		3	885	0	1,045	0%	1,045	(1,045)
Travel In State	7,362	2,972	2,683	4,000	1,186	30%	1,186	2,814
Training	350	10	0	1,000	235	24%	235	765
Facilities Operations	37,275	39,521	40,114	32,000	39,795	124%	39,795	(7,795)
C&P Services Interdept.	0	0	7,542	3,000	13	0%	13	2,987
C&P Services - External	394	2,302	0	0	965	0%	965	(965)
DEPARTMENTAL SERVICES								
Office of Information Services Pro Rata	21,215	19,276	35,000	39,000	39,000	100%	39,000	0
Administration Pro Rata	31,996	37,853	41,000	44,000	44,000	100%	44,000	0
Interagency Services with OPES		100,060	4,000	4,000	4,000	100%	4,000	0
DOI - Special Ops Unit Pro Rata	983	920	1,000	1,000	1,000	100%	1,000	0
Communication Prorata	27,000	14,446	209	2,000	2,029	101%	2,000	0
Public Policy Review Division Pro Rata	59,281	654	22,000	20,000	20,000	100%	20,000	0
INTERAGENCY SERVICES:								
Information Technology	38,376	0	0	1,000	67	7%	67	933
ENFORCEMENT:								
Attorney General	31,300	25,918	25,934	66,000	26,594	40%	26,594	39,406
Office of Admin. Hearings	16,140	2,161	6,245	0	70	0%	100	(100)
TOTALS, OE&E	282,999	254,437	192,370	226,000	183,386	81%	183,527	42,473
TOTAL EXPENSES	634,645	479,218	531,839	563,000	508,386	90%	508,527	54,473
Scheduled/Unsch Reimbursements	(1,000)	(1,000)	(1,000)	(1,000)			(1,000)	
NET APPROPRIATION	633,645	478,218	530,839	562,000	508,386	90%	507,527	54,473
					Surplus/(Deficit):			10%

Professional Fiduciaries Bureau August 14, 2019 Legislative Update

Important Legislative Dates – Spring-Fall 2019

- **August 12** – Legislature reconvenes from Summer Recess.
- **August 30** – Last day for fiscal committees to meet and report bills (Suspense Hearing).
- **September 3-13** – Floor session only.
- **September 6** – Last day to amend bills on the floor.
- **September 13** – Last day for any bill to be passed.
- **October 13** – Last day for Governor to sign or veto bills.

2019 Legislation Related to the Bureau

As of the writing of this handout, there were no bills pending related to the Bureau.

Other Issues

AB 473 (Maienschein, 2019) would increase the specified dollar amounts for a small estate to qualify for disposition without a full probate administration. The bill would also increase the dollar amounts for a surviving spouse to collect unpaid compensation from the decedent-spouse's employer. The bill would also require, on April 1, 2022, and at each 3-year interval ending on April 1 thereafter, the Judicial Council to adjust these dollar amounts based on a particular consumer price index published by the United States Bureau of Labor Statistics. The bill would further require the Judicial Council to publish the adjusted dollar amounts and the date of the next scheduled adjustment. *This bill was enrolled on July 9, 2019.*

AB 1378 (Irwin, 2019) would authorize a custodial parent or a person who has been awarded custody or guardianship of a minor child to designate a person to serve as a standby guardian of the person, the estate, or both, by completing a Standby Guardian's Authorization Affidavit. The bill would require the designation of a standby guardian to take effect, absent an objection of a noncustodial parent, under specified circumstances that include if the custodial parent or guardian has died or is detained by law enforcement, incarcerated, or deported. *This bill failed its first policy committee deadline and is now a two-year bill.*

AB 1396 (Oberholte, 2019) would authorize a court to order a restrained party to participate in mandatory clinical counseling or court-approved anger management courses when the court issues a protective order for abuse involving acts of physical abuse or acts of deprivation by a care custodian of goods or services that are necessary to avoid physical harm or mental suffering. **This bill was amended on May 2, 2019 to specify that each county adult protective services agency would be required to develop and provide information on elder abuse prevention and services.** *This bill is pending a vote on the Senate floor.*

AB 1572 (Chen, 2019) would change the definition of “gravely disabled” in the Health and Safety Code to read in part as where a person, as a result of a mental health disorder, is incapable of making informed decisions about, or providing for, the person’s own basic personal needs for food, clothing, shelter, or medical care without significant supervision and assistance from another person and, as a result of being incapable of making these informed decisions, the person is at risk of substantial bodily harm, dangerous worsening of a concomitant serious physical illness, significant psychiatric deterioration, or mismanagement of essential needs that could result in bodily harm. *This bill’s hearing before the Assembly Health Committee was canceled at the request of the author. This bill is effectively dead for 2019.*

SB 303 (Wieckowski, 2019) would change existing Guardianship-Conservatorship law, which currently authorizes the guardian or conservator to establish the residence of the ward or conservatee at any place within this state without the permission of the court, and requires the guardian or conservator to select the least restrictive appropriate residence that is available. The law presumes that the personal residence of the conservatee is the least restrictive appropriate residence for the conservatee, and provides that, in any hearing to determine if removal of the conservatee from their personal residence is appropriate, the presumption may be overcome by a preponderance of the evidence. This bill would instead provide the presumption may be overcome by clear and convincing evidence. **This bill was amended on July 11, 2019 to prohibit the compensation of a guardian, conservator, or attorney with any government benefits program monies via court order under Probate Code section 2640 unless deemed necessary by a court to sustain the support and maintenance of the ward or conservatee, unless otherwise permitted by law.** *This bill is pending a vote on the Assembly floor.*

SB 308 (Jones, 2019) would revise the definition of instrument under the Probate Code to mean a will, a document establishing or modifying a trust, a deed, or any other writing that designates a beneficiary or makes a donative transfer of property. The current Probate Code definition of “instrument” is a will, trust, deed, or other writing that designates a beneficiary or makes a donative transfer of property. *This bill was chaptered on July 1, 2019.*

SB 314 (Dodd, 2019) This bill would extend remedies under the Elder Abuse and Dependent Adult Civil Protection Act to cases in which the defendant is liable for abandonment under the existing legal standards for physical abuse or neglect. The Elder Abuse and Dependent Adult Civil Protection Act provides for the award of attorney’s fees and costs to, and the recovery of damages by, a plaintiff when it is proven by clear and convincing evidence the defendant is liable for physical abuse or neglect, as defined, and the defendant has also been found guilty of recklessness, oppression, fraud, or malice in the commission of that abuse. *This bill was chaptered on June 26, 2019.*

SB 338 (Hueso, 2019) would eliminate the duty imposed on long-term care ombudsman programs to revise or include in their policy manuals specified information regarding elder and dependent adult abuse. The bill would also authorize local law enforcement agencies to adopt a policy regarding senior and disability victimization, as defined. The bill would require, if a local law enforcement agency adopts or revises a policy regarding senior and disability victimization on or after October 1, 2020, that the policy include specified provisions, including those related to enforcement and training. **This bill was amended on June 17 to include, among other technical changes, the requirement that any written law enforcement policy include protocols for cooperating and collaborating whenever possible with the Bureau of Medi-Cal Fraud and Elder Abuse and other agencies.** *This bill pending a vote on the Assembly floor.*

SB 496 (Moorlach, 2019) would expand the category of mandated reporters of suspected financial abuse to include broker-dealers and investment advisers. The bill would authorize a broker-dealer or investment adviser who makes a report to notify any trusted contact person who had previously been designated by the elder or dependent adult of any known or suspected financial abuse, and to temporarily delay a requested disbursement or transaction from an account of an elder or dependent adult or an account to which an elder or dependent adult is a beneficiary if specified conditions are met. *This bill is pending a vote on the Assembly floor.*

Question: At the last meeting Ms. Thomson asked for a list of specified conditions if such a list exists.

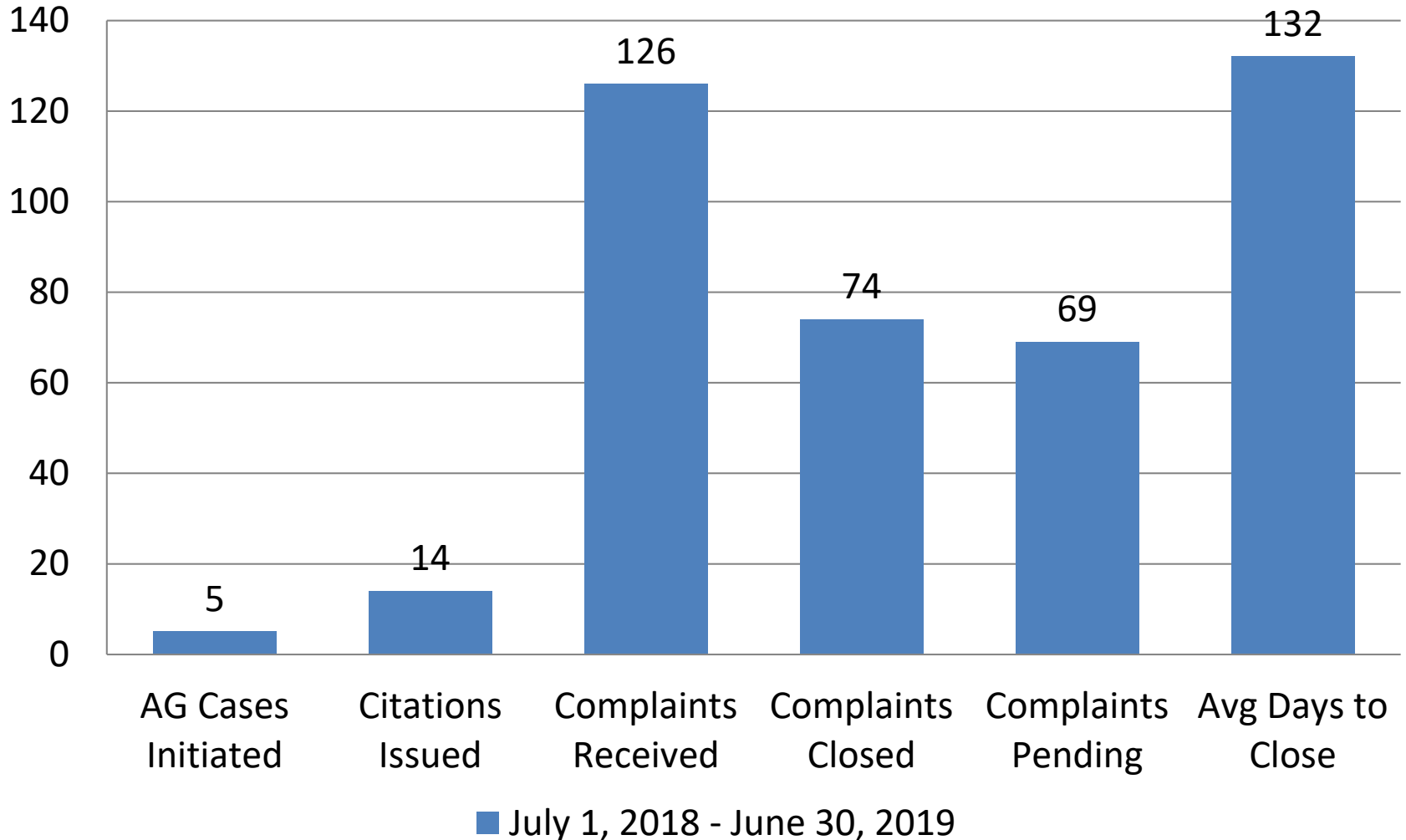
Answer: The circumstances under which a transaction may be temporarily delayed are defined in proposed Welfare and Institutions Code §15630.2(j)(1) –

(j) (1) A mandated reporter of suspected financial abuse of an elder or dependent adult may temporarily delay a requested disbursement from, or a requested transaction involving, an account of an elder or dependent adult or an account to which an elder or dependent adult is a beneficiary if the mandated reporter meets all of following conditions:

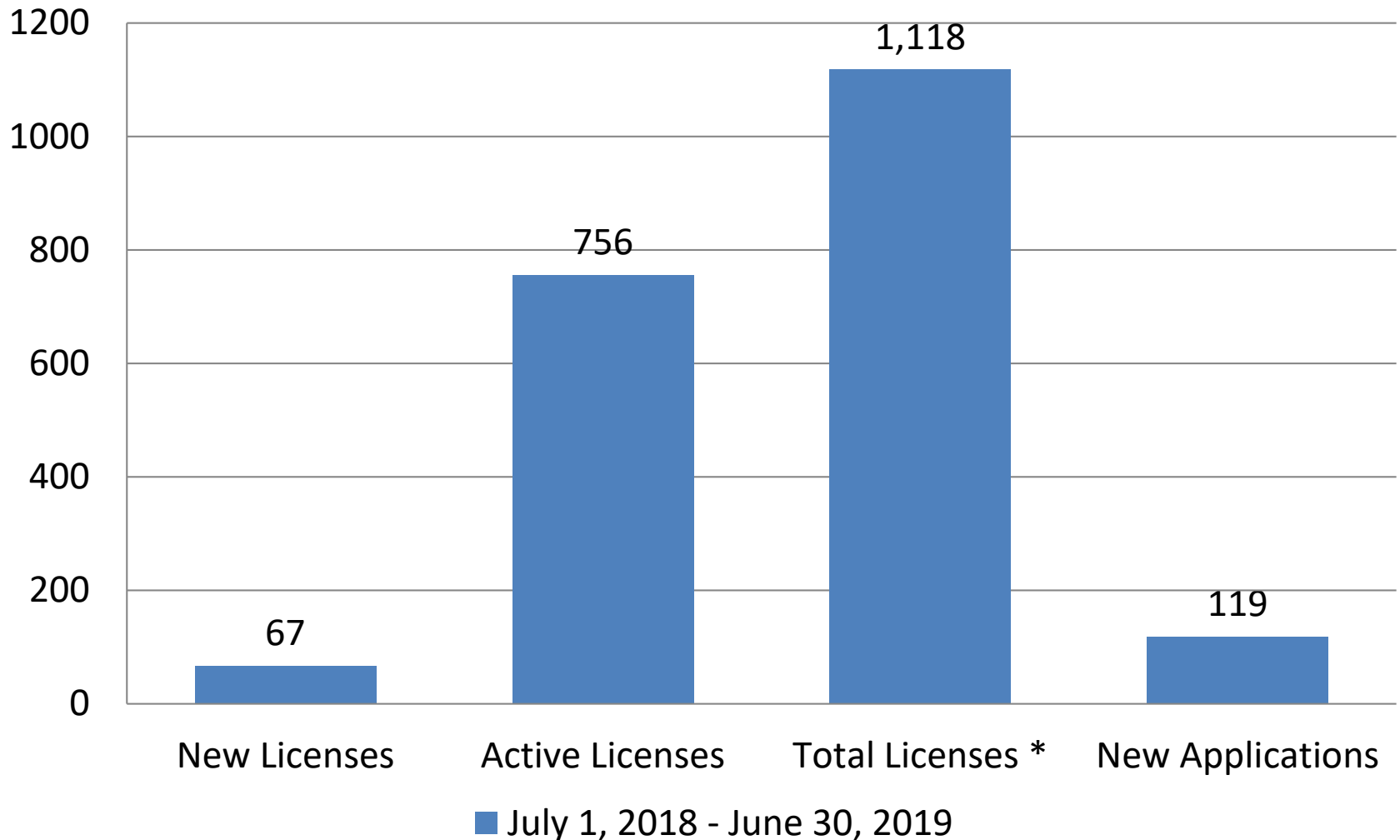
- (A) They have a reasonable belief, after initiating an internal review of the requested disbursement or transaction and the suspected financial abuse, that the requested disbursement or transaction may result in the financial abuse of an elder or dependent adult.
- (B) Immediately, but no later than two business days after the requested disbursement or transaction is delayed, they provide written notification of the delay and the reason for the delay to all parties authorized to transact business on the account, unless a party is reasonably believed to have engaged in suspected financial abuse of the elder or dependent.
- (C) Immediately, but no later than two business days after the requested disbursement or transaction is delayed, they notify the local county adult protective services agency, local law enforcement agency, and the Department of Business Oversight about the delay.
- (D) They provide any updates relevant to the report to the local adult protective services agency, the local law enforcement agency, and the Department of Business Oversight.

Complaint Statistics FY 2018-19

July 1, 2018 – June 30, 2019



Licensing Statistics Through July 1, 2018 – June 30, 2019



* Total licenses issued since July 1, 2008

OUTREACH EVENTS

Since the last Advisory meeting

- None

Upcoming Events

- 2019 Yolo County Senior Resource & Crime Prevention Fair, October 16, 2019 in Davis.
- 2019 Dixon Senior Resource Fair, October 19, 2019 in Dixon.