

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, December 2, 2020**

Meeting Minutes

Committee Members Present

Wendy Hatch, Vice Chair
James Moore
Chi Elder
Bertha Sanchez Hayden
Denise Nelesen
Elizabeth Ichikawa

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. Hatch called the meeting to order at 10:00 a.m. and stated the meeting was being held via WebEx with no physical public locations due to the Governor’s executive order N-29-20.
- 2) Roll Call & Establishment of Quorum – Ms. Cuadra called roll. Committee members Ms. Wendy Hatch, Mr. James Moore, Ms. Chi Elder, Ms. Bertha Sanchez Hayden, Ms. Denise Nelesen, and Ms. Elizabeth Ichikawa were present via WebEx. A quorum was established with six members present.
- 3) Advisory Committee, Bureau Chief, Staff and Legal Counsel Introductions – Committee Members, Bureau staff, and Legal Counsel introduced themselves.
- 4) Public Comment on Items Not on the Agenda – The bureau should be investigating abuse of power complaints. A consumer stated there are several websites which advertise their services as licensees, but the license numbers do not appear on the bureau’s website
- 5) Reading of the Professional Fiduciaries Bureau Mission Statement – Ms. May read the Bureau’s mission statement.

Public Comment: None.

- 6) Discussion and Possible Approval of the Advisory Committee Meeting Minutes from

December 2, 2020 –

Ms. Hatch requested a change to agenda item 13, changing “Further, he” to “Further, the” Ms. Elder motioned to approve the minutes with this change. Mr. Moore seconded the motion. A vote by roll call was made: Ms. Hatch, Mr. Moore, Ms. Elder, Ms. Sanchez Hayden, Ms. Nelesen, and Ms. Ichikawa were in favor. There was no discussion from the committee members and the motion carried with six votes. Ms. Cuadra stated the minutes would be posted to the website with the change requested by Ms. Hatch.

Public Comment: None.

7) Update from the Director’s Office –

Mr. Ryan Perez, of Board and Bureau Relations, reported on the department’s Division of Investigations’ plan to review investigative timelines and staffing levels to identify ways to increase efficiency of their investigations. Updates will be provided to the bureau on their findings. Mr. Perez also reported on closures of offices due to pandemic. Additionally, the department was notified that all boards and bureaus will be taking a five percent budget cut due to the challenges of the pandemic. Board member orientation trainings continue to be held on a quarterly basis.

Ms. Nelesen asked for a timeline for the hiring of the investigative group and Mr. Perez stated the individual has already been hired and the work has begun.

Public Comment: A member of the public commented it was nice to see the hearing link on the bureau’s website, but once on that link, the consumer cannot search by bureau.

8) Budget Report – (This item was presented at the end of the meeting after item #13.)

Mr. Paul McDermott, DCA Budget Analyst, presented the budget projection report and fund condition for the Bureau. He stated the bureau’s budget is solid and the bureau is projecting a positive balance of months in reserve.

Ms. Hatch asked for an explanation of “other regulatory fees, license, and permits” and Mr. McDermott replied this would include application, licensing, and citation fine fees. Ms. Nelesen stated it appears licensing stays about the same that the committee should discuss ways to increase licensing numbers.

Public Comment: None.

9) Bureau Updates – Ms. May presented the Bureau’s statistics as of October 31, 2020.

- Application Licensing and Enforcement Statistics –

July 1, 2020 – October 31, 2020	
New Licenses	25
Active Licenses	772
Total Licenses Issued	1,191

New Applications Received	27
AG Cases Initiated	0
Citations Issued	4
Complaints Received	49
Complaints Closed	15
Complaints Pending	114
Average Days to Close Complaints	200

- Outreach – Ms. May stated no outreach events were attended since the last meeting due to the pandemic. Ms. May asked the committee to inform the Bureau of any outreach events by email.
- E-Newsletter – Ms. May stated the newsletter is pending DCA’s publication’s office. The newsletter should be up in the coming days and a notice will be sent to the bureau’s interested parties list once the newsletter is posted
- Bureau Performance Measure Goals for Complaint Response Times – Ms. May stated that all complaints received are required to be investigated. Performance measure goals have been established but these goals are not hard deadlines. The bureau is currently meeting each of the performance measure goals.
- Legislative Update – Ms. May stated there were no legislative updates due to the timing of the legislative session.

Public Comment: A member of the public commented that the bureau refuses to investigate elder abuse where law enforcement fails to respond. Ms. May responded that the bureau does not have the authority to prosecute criminal acts and cannot compel law enforcement to prosecute.

10) Proposed Rulemakings Update –

Ms. May reported that the inactive/retired license and client notification proposed regulations are in the pre-review process and have not yet been filed with the Office of Administrative Law. The proposed regulation for substantial relationship and rehabilitation criteria is in its final review with the Office of Administrative Law and will be posted to the bureau’s website and noticed to the interested parties list after the first of the year.

Public Comment: None.

11) 2021 Chair and Vice Chair Advisory Committee Elections –

Ms. Hatch nominated Ms. Elder for Chair and there were no additional nominations. A vote by roll call was made: Ms. Hatch, Mr. Moore, Ms. Elder, Ms. Sanchez Hayden, Ms.

Nelesen, and Ms. Ichikawa were in favor. There was no discussion from the committee members and the motion carried with six votes.

Ms. Hatch nominated Ms. Sanchez Hayden for Vice Chair and there were no additional nominations. A vote by roll call was made: Ms. Hatch, Mr. Moore, Ms. Elder, Ms. Sanchez Hayden, Ms. Nelesen, and Ms. Ichikawa were in favor. There was no discussion from the committee members and the motion carried with six votes.

Public Comment: None.

12) Future Agenda Items –

Ms. Cuadra stated there were no items recorded during this meeting for future meetings.

Public Comment: None.

13) Future Meeting Dates

- Wednesday, March 10, 2021
- Wednesday, June 16, 2021
- Wednesday, September 15, 2021
- Wednesday, December 8, 2021

Committee members did not mention any scheduling conflicts and were asked to contact Ms. Cuadra if there are any conflicts.

Public Comment: None.

14) Adjournment – The meeting was adjourned at 10:55 a.m.

Department of Consumer Affairs
 Expenditure Projection Report
Professional Fiduciaries Bureau
 Reporting Structure(s): 11117000 Support
 Fiscal Month: 5
 Fiscal Year: 2020 - 2021
 Run Date: 01/08/2021

PERSONAL SERVICES

Fiscal Code	PY FM13	Budget	Current Month	YTD	Projections to Year End
5100 PERMANENT POSITIONS	\$238,929	\$187,000	\$19,443	\$95,365	\$231,377
5100 TEMPORARY POSITIONS	\$0	\$22,000	\$0	\$0	\$0
5105-5108 PER DIEM, OVERTIME, & LUMP SUM	\$400	\$0	\$0	\$200	\$400
5150 STAFF BENEFITS	\$121,667	\$124,000	\$9,467	\$48,653	\$118,043
PERSONAL SERVICES	\$360,996	\$333,000	\$28,910	\$144,218	\$349,820

OPERATING EXPENSES & EQUIPMENT

Fiscal Code	PY FM13	Budget	Current Month	YTD	Projections to Year End
5301 GENERAL EXPENSE	\$981	\$5,000	\$4	\$53	\$981
5302 PRINTING	\$1,761	\$1,000	\$353	\$353	\$1,761
5304 COMMUNICATIONS	\$349	\$1,000	\$19	\$119	\$349
5306 POSTAGE	\$207	\$2,000	\$0	\$0	\$207
53202-204 IN STATE TRAVEL	\$772	\$4,000	\$0	\$0	\$193
5322 TRAINING	\$164	\$1,000	\$0	\$0	\$164
5324 FACILITIES	\$41,219	\$40,000	\$3,630	\$13,668	\$41,219
53402-53403 C/P SERVICES (INTERNAL)	\$64,855	\$78,000	\$4,528	\$19,815	\$59,205
53404-53405 C/P SERVICES (EXTERNAL)	\$8,400	\$0	\$0	\$0	\$328
5342 DEPARTMENT PRORATA	\$109,659	\$107,000	\$0	\$56,500	\$107,000
5342 DEPARTMENTAL SERVICES	\$69	\$4,000	\$17	\$17	\$69
5344 CONSOLIDATED DATA CENTERS	\$930	\$0	\$0	\$0	\$930
5346 INFORMATION TECHNOLOGY	\$354	\$1,000	\$0	\$0	\$354
5362-5368 EQUIPMENT	\$4,010	\$0	\$40	\$40	\$281
OPERATING EXPENSES & EQUIPMENT	\$233,738	\$244,000	\$8,591	\$90,564	\$213,041

OVERALL TOTALS	\$594,733	\$577,000	\$37,501	\$234,782	\$562,861	\$14,139
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2.45%

3108 - Professional Fiduciary Fund
Analysis of Fund Condition
2021-22 Governor's Budget
(Dollars in Thousands)

	PY 2019-20	CY 2020-21	BY 2021-22
BEGINNING BALANCE	\$296	\$265	\$374
Prior Year Adjustment	-\$5	\$0	\$0
Adjusted Beginning Balance	\$291	\$265	\$374
REVENUES, TRANSFERS AND OTHER ADJUSTMENTS			
Revenues			
4129200 - Delinquent fees	\$3	\$4	\$4
4129400 - Renewal fees	\$483	\$562	\$563
4129200 - Other regulatory fees	\$24	\$30	\$26
4129400 - Other regulatory licenses and permits	\$89	\$118	\$138
4163000 - Income from surplus money investments	\$8	\$2	\$5
Totals, Revenues	\$607	\$716	\$736
TOTALS, REVENUES, TRANSFERS AND OTHER ADJUSTMENTS	\$607	\$716	\$736
TOTAL RESOURCES	\$898	\$981	\$1,110
EXPENDITURES AND EXPENDITURE ADJUSTMENTS			
Expenditures:			
1111 Program Expenditures (State Operations)	\$595	\$563	\$632
8880 Financial Information System for California (State Operations)	\$0	\$0	\$0
9892 Supplemental Pension Payments (State Operations)	\$12	\$12	\$12
9900 Statewide Pro Rata	\$26	\$32	\$39
TOTALS, EXPENDITURES AND EXPENDITURE ADJUSTMENTS	\$633	\$607	\$683
FUND BALANCE			
Reserve for economic uncertainties	\$265	\$374	\$427
Months in Reserve	5.2	6.6	7.4

NOTES:

Assumes workload and revenue projections are realized in BY +1 and ongoing.
Expenditure growth projected at 3% beginning BY +1.
CY revenue and expenditures are projections.

**Professional Fiduciaries Bureau
March 10, 2021 Legislative Update**

Important Dates

- **February 19** – Last day for bills to be introduced
- **March 25** – Spring Recess begins
- **April 5** – Legislature reconvenes from Spring Recess

2021 Legislation Related to the Bureau

AB 260 (Stone) Guardianships

This bill would require the court to have good cause to waive a local child welfare services agency investigation and would prohibit the guardianship proceedings from being completed until the investigation is completed and a report is provided to the juvenile court. Second, this bill would require the state-funded Kinship Guardianship Assistance Payment Program (Kin-GAP) aid to be provided on behalf of any child under 18 years of age and to any eligible youth under 21 years of age who has kinship guardianship established. This bill would also eliminate existing law requirements to receive Kin-GAP aid.

February 2021 Status: Assembly Judiciary Committee

AB 465 (Nazarian) Professional fiduciaries: prelicensing and renewal or restoration: education

This bill, beginning January 1, 2023, would require prelicensing education courses for professional fiduciaries to include at least one hour of instruction in cultural competency. The bill would also require a licensee to complete at least one hour of instruction in cultural competency every 3 years as a condition of license renewal or restoration.

February 2021 Status: In Assembly

AB 574 (Chen) Guardians ad litem: mental illness

This bill would establish an additional procedure for the appointment of a guardian ad litem for a person who lacks the capacity to make rational informed decisions regarding medical care, mental health care, safety, hygiene, shelter, food or clothing. This bill would authorize certain persons to petition the court for the appointment of a guardian ad litem and would establish the procedures that would govern the filing of the petition, notice procedures and court procedures.

February 2021 Status: In Assembly

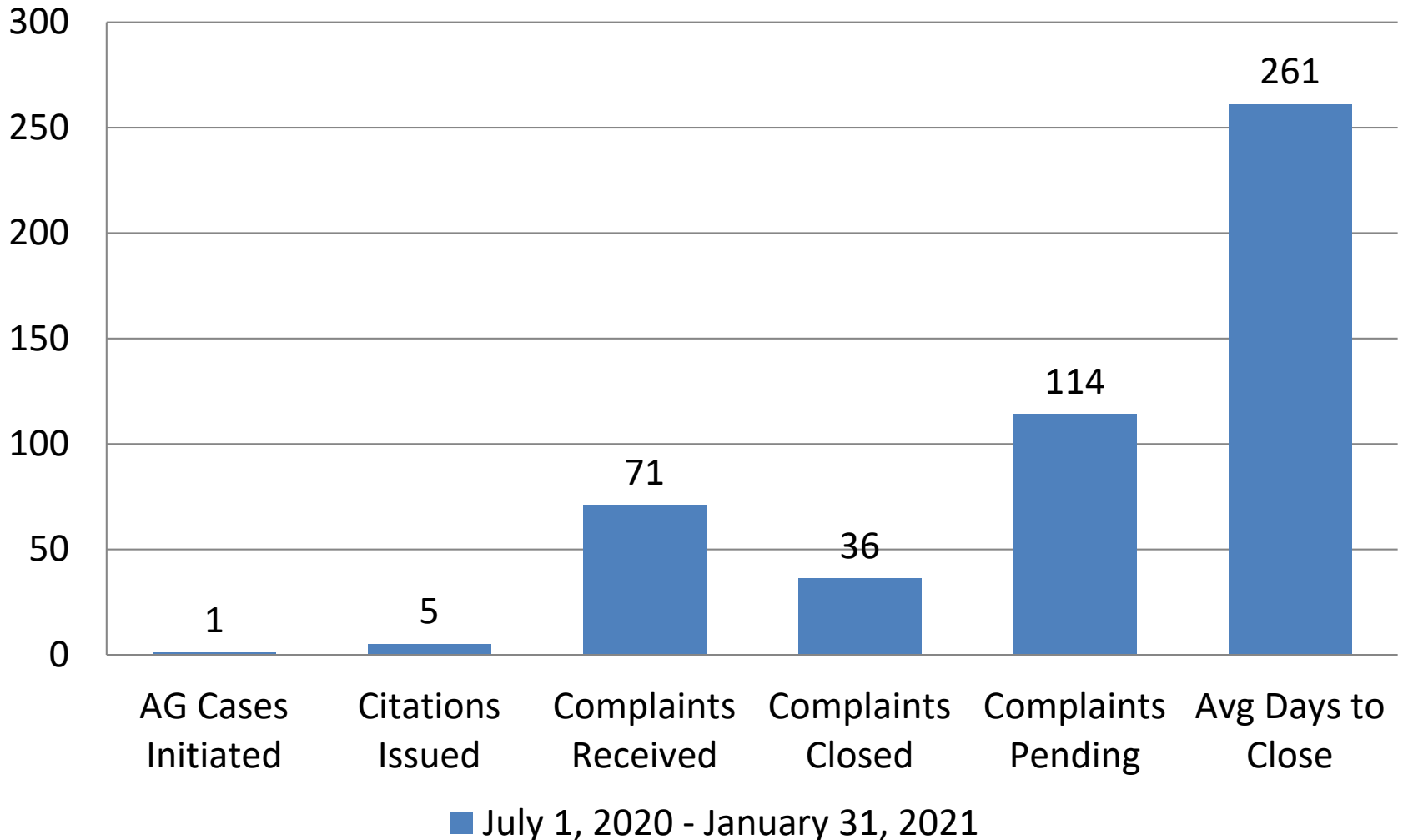
AB 596 (Nguyen) Appointed legal counsel

This bill would require an attorney, who determines the conservatee or proposed conservatee is unable to communicate, to report this inability to the court. The court will then make a determination regarding this allegation based on evidence, in a procedure as determined by the court. This bill would specifically require an attorney, who is appointed under these provisions to represent a conservatee, proposed conservatee, or person alleged to lack legal capacity to act as an advocate for the client, and would prohibit the attorney from substituting their own judgment for that of the client's expressed interests.

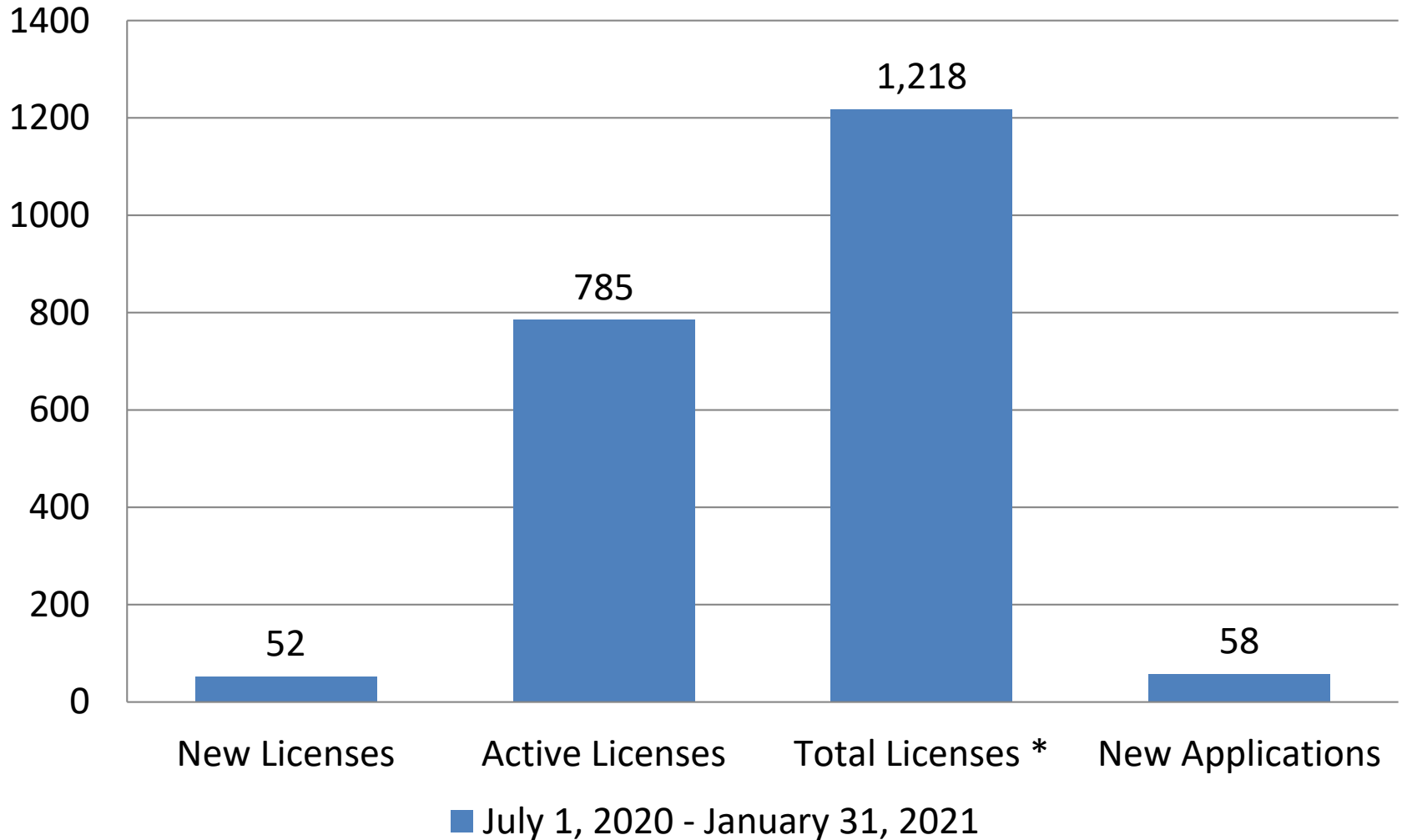
February 2021 Status: In Assembly

Complaint Statistics FY 2020-21

July 1, 2020 – January 31, 2021



Licensing Statistics Through July 1, 2020 – January 31, 2021



* Total licenses issued since July 1, 2008

DEPARTMENT OF CONSUMER AFFAIRS
TITLE 16. PROFESSIONAL AND VOCATIONAL REGULATIONS
DIVISION 41.
PROFESSIONAL FIDUCIARIES BUREAU

ORDER OF ADOPTION

§ 4520. Substantially Related Criteria for Denial of License.

(a) For the purposes of the denial of a license pursuant to Division 1.5 (commencing with Section 475) of the Business and Professions Code, a crime, professional misconduct, or act shall be considered to be substantially related to the qualifications, functions, or duties of a professional fiduciary if to a substantial degree it demonstrates evidences present or potential unfitness of a person holding a professional fiduciary license to perform the functions authorized by the license in a manner consistent with the public health, safety, or welfare. Such

(b) In making the determination required for the denial of a license for the conviction of a crime substantially related to the qualifications, functions, or duties of a professional fiduciary, all of the following criteria shall be considered:

(1) The nature and gravity of the offense;

(2) The number of years elapsed since the date of the offense; and

(3) The nature and duties of a professional fiduciary.

(c) For purposes of subdivision (a), substantially related crimes or acts, professional misconduct, or acts shall include, but are not limited to, the following:

(1) A conviction of crimes involving domestic abuse.

(2) A conviction of crimes involving elder abuse.

(3) A conviction of crimes involving child abuse.

(4) Conviction of a sex crime and/or crimes in which registration as a sex offender is required.

(5) Conviction for assault and/or battery.

(6) Conviction for driving under the influence of drugs or alcohol.

(7) Conviction of financial crimes involving fiscal dishonesty or breach of fiduciary responsibilities of any kind, dishonesty, money laundering, fraud, deceit, robbery, theft, grand theft, larceny, burglary, identity theft, or obtaining money, labor, or property under false pretenses, or other crimes listed in Section 4521.

(8) Conviction of crimes involving human trafficking.

(9) Conviction of crimes involving false imprisonment.

(10) Conviction of crimes involving kidnapping.

(11) Conviction of crimes involving extortion.

(12) Conviction of crimes involving murder or attempt thereof.

(13) Conviction of crimes involving terrorism.

Note: Authority cited: Sections 481 and 6517, Business and Professions Code.

Reference: Sections 480, 481, 493, 6536, and 6537, Business and Professions Code.

§ 4521. Criteria to Aid in Determining if Felony Financial Crimes Are Directly and Adversely Related to Fiduciary Qualifications, Functions, or Duties of a Licensee.

For the purposes of Section 480, subdivision (a)(1)(B)(ii) of the Business and Professions Code, a financial crime that is classified as a felony, including felony conspiracy or felony attempt to commit that crime, shall be considered to be directly and adversely related to the fiduciary qualifications, functions, or duties of a professional fiduciary if it involves dishonesty, fraud, deceit, or theft that resulted in or could have resulted in either: (i) direct financial benefit to the applicant or another person, estate, or trust, or (ii) direct financial harm to another person, estate, or trust. Financial crimes that are directly and adversely related to the fiduciary qualifications, functions, or duties of a professional fiduciary shall include, but are not limited to, the following:

(a) Crimes involving the acquisition or provision of false, altered, forged, counterfeit, or fraudulent statements or documents.

(b) Crimes involving stolen property, embezzlement, money laundering, fraud, theft, grand theft, larceny, burglary, identity theft, or obtaining money, labor, or property under false pretenses.

Note: Authority cited: Sections 480 and 6517, Business and Professions Code.

Reference: Sections 480, 481, 492, 6536, and 6537, Business and Professions Code.

§ 4522. Rehabilitation Criteria for Denial of License.

(a) When considering the denial of a license under Section 480 or Section 6536, subdivision (b) of the Business and Professions Code on the ground that the applicant has been convicted of a crime substantially related to the qualifications, functions, or duties of a professional fiduciary, the Bureau, in evaluating the shall consider whether the applicant made a showing of rehabilitation of the applicant and his or her present eligibility for a license, if the applicant completed the criminal sentence at issue without a violation of parole or probation. In making this determination, the Bureau shall consider the following criteria:

(1) The nature and gravity of the crime(s).

(2) The length(s) of the applicable parole or probation period(s).

(3) The extent to which the applicable parole or probation period was shortened or lengthened, and the reason(s) the period was modified.

(4) The terms or conditions of parole or probation and the extent to which they bear on the applicant's rehabilitation.

(5) The extent to which the terms or conditions of parole or probation were modified, and the reason(s) for modification.

(b) If the applicant has not completed the criminal sentence at issue without a violation of parole or probation, the Bureau determines that the applicant did not make the showing of rehabilitation based on the criteria in subdivision (a), or the denial is based

on professional misconduct, the Bureau shall apply the following criteria in evaluating an applicant's rehabilitation:

~~(a)~~ (1) The nature and severity/gravity of the act(s), professional misconduct, or crime(s) under consideration as grounds for denial.

~~(b)~~ (2) Evidence of any act(s), professional misconduct, or crime(s) committed subsequent to the act(s), professional misconduct, or crime(s) under consideration as grounds for denial which also could be considered grounds for denial under Sections 480 and 6536.

~~(c)~~ (3) The time that has elapsed since commission of the act(s), professional misconduct, or crime(s) referred to in subdivision (a) or (b), paragraph (1) or (2).

~~(d)~~ (4) The extent to which Whether the applicant has complied with any terms of parole, probation, restitution or any other sanctions lawfully imposed against the applicant.

(5) The criteria in subdivision (a)(1) through (a)(5), as applicable.

~~(e)~~ (6) Evidence, if any, of rehabilitation submitted by the applicant.

Note: Authority cited: Sections 481, 482, and 6517, Business and Professions Code. Reference: Sections 480, 481, 482, 488, 6536, and 6537, Business and Professions Code.

§ 4620. Substantially Related Criteria for License Suspension or Revocation.

(a) For the purposes of the suspension or revocation of a license pursuant to Section 141 or Division 1.5 (commencing with Section 475) of the Business and Professions Code, a crime or act shall be considered to be substantially related to the qualifications, functions, or duties of a fiduciary professional fiduciary if to a substantial degree it demonstrates evidences present or potential unfitness of a person holding a professional fiduciary license to perform the functions authorized by the license in a manner consistent with the public health, safety, or welfare. Such

(b) In making the determination required for the suspension or revocation of a license for the conviction of a crime substantially related to the qualifications, functions or duties of a professional fiduciary, all of the following criteria shall be considered:

(1) The nature and gravity of the offense;

(2) The number of years elapsed since the date of the offense; and

(3) The nature and duties of a professional fiduciary.

(c) For purposes of subdivision (a), substantially related crimes or acts shall include include, but are not be limited to, the following:

(1) A conviction of crimes involving domestic abuse.

(2) A conviction of crimes involving elder abuse.

(3) A conviction of crimes involving child abuse.

(4) Conviction of a sex crime and/or crimes in which registration as a sex offender is required.

(5) Conviction for assault and/or battery.

(6) Conviction for driving under the influence of drugs or alcohol.

(7) Conviction of financial crimes related to and/or involving fiscal dishonesty or breach of fiduciary responsibilities of any kind: dishonesty, money laundering, fraud, deceit,

robbery, theft, grand theft, larceny, burglary, identity theft, or obtaining money, labor, or property under false pretenses, or other crimes listed in Section 4521.

(8) Conviction of crimes involving human trafficking.

(9) Conviction of crimes involving false imprisonment.

(10) Conviction of crimes involving kidnapping.

(11) Conviction of crimes involving extortion.

(12) Conviction of crimes involving murder or attempt thereof.

(13) Conviction of crimes involving terrorism.

Note: Authority cited: Sections 481 and 6517, Business and Professions Code.
Reference: Sections 141, 481, 490, 492, 493, 6580, and 6584, Business and Professions Code.

§ 4622. Rehabilitation Criteria for License Suspension or Revocation.

(a) When considering the suspension or revocation of a license under Section 480 or 6536 490 of the Business and Professions Code, the Bureau, in evaluating the shall consider whether the licensee made a showing of rehabilitation of the licensee and his or her present eligibility for a license, if the licensee completed the criminal sentence at issue without a violation of parole or probation. In making this determination, the Bureau shall consider the following criteria:

(1) The nature and gravity of the crime(s).

(2) The length(s) of the applicable parole or probation period(s).

(3) The extent to which the applicable parole or probation period was shortened or lengthened, and the reason(s) the period was modified.

(4) The terms or conditions of parole or probation and the extent to which they bear on the licensee's rehabilitation.

(5) The extent to which the terms or conditions of parole or probation were modified, and the reason(s) for modification.

(b) If the licensee has not completed the criminal sentence at issue without a violation of parole or probation, the Bureau determines that the licensee did not make the showing of rehabilitation based on the criteria in subdivision (a), or the suspension or revocation is based on a disciplinary action as described in Section 141 of the Business and Professions Code, the Bureau shall apply the following criteria in evaluating the licensee's rehabilitation:

(a) (1) The nature Nature and severity gravity of the act(s), underlying act(s) in the disciplinary action, or crime(s) under consideration as grounds for suspension or revocation.

(b) Evidence of any act(s) or crime(s) committed subsequent to the act(s) or crime(s) under consideration as grounds for suspension or revocation which also could be considered grounds for suspension or revocation under Section 6584 of the Business and Professions Code.

(2) Total criminal record.

(c) (3) The time that has elapsed since commission of the act(s), underlying act(s) in the disciplinary action, or crime(s) referred to in subdivision (a) or (b).

~~(d)(4) The extent to which~~ Whether the licensee has complied with any terms of parole, probation, restitution or any other sanctions lawfully imposed against the licensee.

(5) The criteria in subdivision (a)(1) through (a)(5), as applicable.

(6) If applicable, evidence of dismissal proceedings pursuant to Section 1203.4 of the Penal Code.

~~(e)(7)~~ Evidence, if any, of rehabilitation submitted by the licensee.

Note: Authority cited: Sections 482 and 6517, Business and Professions Code.
Reference: Sections 141, 482, 488, 490, 493, 6580, and 6584, Business and Professions Code.