



**Professional Fiduciaries Bureau**  
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## **Professional Fiduciaries Bureau Advisory Committee Meeting**

**Tuesday, November 19, 2013  
10:00 a.m. – 2:00 p.m.**

**Meeting Location:  
Department of Consumer Affairs-HQ1  
1625 N. Market Boulevard, 1<sup>st</sup> Floor Hearing Room  
Sacramento, California 95834**

1. Call to Order – Marguerite Lorenz, Chair  
The meeting was called to order at 10:16 am.
2. Roll Call – Julia Ansel, Bureau Chief  
Roll Call was taken and a quorum was established with 5 members.
3. Introductions  
Those in attendance introduced themselves.
4. Election of Chair & Vice Chair  
Ms. Lorenz nominated herself for Chair; the nomination was seconded by Ms. Thomson. Ms. Federizo nominated Ms. de Vries; the nomination was seconded by Mr. Cole. A vote was taken and there were three votes for Ms. Lorenz and two votes for Ms. de Vries. Ms. Lorenz will hold the office of Advisory Committee Chairperson for the year 2014.  
  
Ms. Lorenz nominated Ms. de Vries for Vice Chair; the nomination was seconded by Ms. Federizo. A vote was taken and there were five votes for Ms. de Vries. Ms. de Vries will hold the office of Advisory Committee Vice Chairperson for the year 2014.
5. Approval of the Advisory Committee Meeting Minutes from July 31, 2013  
Ms. Thomson motioned to accept the minutes as written, the motion was seconded by Ms. Federizo, a vote was taken and there were five votes to accept the minutes as written.  
Approval of the Strategic Planning Meeting Minutes from July 31, 2013  
Ms. de Vries motioned to accept the minutes as written, the motion was seconded by Ms. Thomson, a vote was taken and there were five votes to accept the minutes as written.

Approval of the Strategic Planning Meeting Minutes from August 1, 2013  
Ms. de Vries motioned to accept the minutes as written, the motion was seconded by Ms. Federizo, a vote was taken and there were five votes to accept the minutes as written.

6. Adoption of 2014-2016 Strategic Plan

Ms. Bigelow stated Ms. Estacio has resigned from the Advisory Committee and her name will be removed from the document.

Ms. Federizo motioned to accept the plan as written, the motion was seconded by Ms. Thomson, a vote was taken and there were five votes to accept the plan as written with the removal of Ms. Estacio from the plan.

7. Updates from the Director's Office – Sonja Merold, Acting Chief of the Division of Programs and Policy Review

Ms. Merold spoke on behalf of the Director of the Department of Consumer Affairs (DCA) Ms. Denise Brown. She stated there is a major initiative called BreEZe and the first phase went live on October 8, 2013. There will be three phases in the implementation of this project. BreEZe will be a one stop shop for licensees, businesses, and applicants to pay with a credit card, renew licenses on-line, view information real time, and file and track complaints. The Professional Fiduciaries Bureau (Bureau) will go live with this system in the third phase which is anticipated to be released in the fall of 2014.

DCA has a zero tolerance for sexual harassment and all members are required to take Sexual Harassment Prevention training. All members of the committee have completed this training.

Business and Professions Code (B&P), Section 453 requires that within one year newly appointed committee members are to complete Board Member Orientation Training (BMOT). Two members will be attending this training tomorrow. The objective of the training is to understand the separate roles of the Bureau Chief, conflict of interests, the Form 700, Bagley-Keene Act, policy making, and discipline.

Another innovation is the CALATERS Global program. DCA and all other State Agencies have partnered with the State Controllers Office to streamline the payment process for travel expense reimbursements.

8. Education Subcommittee Report – Barbara de Vries, Subcommittee Chair

Ms. de Vries introduced the members of the subcommittee; Ms. de Vries is the subcommittee chair and a licensee, Mr. Cole is the subcommittee vice chair and an advocate on behalf of the elderly, and Mr. Urbatsch is a public member and also is an estate and trust attorney.

- Status of the Subcommittee -

The subcommittee is currently researching the following things:

- a. A Possible mentoring or internship program as part of licensing requirements.
- b. Advocacy for long term care, preserving assets, elder abuse, and scams.

- c. Parcel out how many hours of prelicensing and continuing education credits should be taken in each category.
- d. The subcommittee has decided to remain at three members for now but welcomes public comment at any of the meetings. The next meeting will be held on December 12, 2013 at 9:30am.
- University of California Riverside Presentation – Jennifer Campbell  
Ms. de Vries introduced Ms. Campbell from the University of California Riverside.

Ms. Campbell stated this program is an extension of the University and is funded by tuition fees alone. No funding is received from the University or the State. The Professional Fiduciary Certificate Program was started in January 2011. An advisory committee was created to define the curriculum, develop courses, and select instructors. The program has been reviewed and revised and is now in its third revision. The program is 14 units and each course is post graduate professional level. The courses are letter graded and require tests and assignments. The courses and instructors went through an approval process of the extension program, academic senate, and the department. A Bachelor Degree is not required to enter the certificate program.

There are seven required courses which are two units or 20 hours each and the student must pass with a “C” or better in order for the course to count toward their certificate. The total cost of the program is \$2,500 and the students pay as they go. It takes approximately one year to complete the program. The program is offered in flexible format on-line as live webcast. Those who want to attend in person are welcome to do so and will be part of the live webcast. There is an average of 18-25 students per class.

There have been 23 graduates from the program and there are 116 in progress at this time. Of the 116 in progress 58% plan to complete the entire certificate program and 42% do not. The University did not ask why the 42% did not plan to complete the program but believe it is because the requirement to apply for licensure is only 30 hours.

There was a survey taken to determine how many students have passed the exam. There was a low response rate, but of those who responded 90% have passed the exam.

Ms. Thomson asked of the students not completing the program are there specific classes they are taking. Ms. Campbell stated that a survey has not been done on this but the accounting class always seems to be full.

Mr. Cole asked if the students are coming back to complete the program as continuing education after they have obtained their license. Ms. Campbell stated this is a possibility. Ms. Lorenz asked for more information of who is on the approval committee, who are the instructors, and how the courses and instructors are approved. Ms. Campbell stated this information is on the website. The committee members and instructors are licensees and attorneys.

Ms. de Vries asked if the program has considered adding an internship to their program and Ms. Campbell stated they have and the students have requested this. At this time one of the courses requires the students to talk with and question licensees. Ms. Lorenz stated she has received these calls and suggests the program direct them to ask more substantial questions instead of how much the licensee charges.

Mr. Cole asked how students determine which classes are needed to prepare for the exam. Ms. Campbell stated there is not a course for exam preparation. Ms. Federizo stated the students probably make the decision of which courses to take depending upon which subject they are personally weak in. Ms. Lorenz added it may be a matter of timing and that the students are just taking the next two courses available in order to be able to apply for their license.

Ms. Campbell stated students have been asking for a class on exam preparation and sample questions, however, the instructors are not comfortable creating this course because when they took the exam they signed that they would not share the exam questions.

Mr. Cole stated the mission of the Education Subcommittee is to encourage more licensees and it seems the criteria the subcommittee is considering adding as a requirement for applicants and licensees do not appear in the University curriculum. Ms. Campbell stated the University would be able to add the criteria and possibly fold the criteria of advocacy and business practices into the current programs.

Ms. Campbell also stated that internship and a practical component is the way education is going today. Ms. Lorenz suggested the instructors contact licensees and get to know them before referring students to contact the licensee.

Ms. de Vries noted the courses are MCLE certified.

- Subcommittee Future Meeting Dates

There will be a meeting held by teleconference on December 12, 2013 at 9:30am. The offices will be open to the public.

#### 9. Ethics Subcommittee Report – Aileen Federizo, Subcommittee Chair

Ms. Federizo introduced the members of the subcommittee as herself and Ms. Lorenz.

- Status of Subcommittee

The subcommittee is currently researching the following things:

- a. What a Professional Fiduciary can charge for, fees on fees, and charging for speaking to the Bureau in regard to a complaint. Basically, what are reasonable fees.
- b. The subcommittee members are looking at citations that have been issued by the Bureau. Ms. Scott directed everyone to Sections 4470-4484 of the California Code of Regulations.

Ms. Lorenz stated the role of the subcommittee is to review the current code of ethics and decide if it is understandable and reasonable. Ms.

Ansel stated the subcommittee can make recommendations to the full advisory Committee and to the Bureau of the findings.

Ms. Thomson asked to join the subcommittee and Ms. Ansel explained if the subcommittee adds a member the meetings will have to be public and noticed as the other public meetings are. Ms. Lorenz stated the current subcommittee members will discuss this at the next meeting.

- Subcommittee Future Meeting Dates

Future dates were not scheduled at this time.

Break 11:15am-12:30pm

#### 10. Bureau Update – Julia Ansel, Bureau Chief

- Status of the Bureau – Bureau staff is consistently meeting and exceeding goals in licensing, renewals, and enforcement. Currently, the staff is reviewing applications within two weeks of receipt and the staff is working on renewals for licenses that will expire in December of 2013. The Bureau has submitted its final Sunset Review Report to the Senate Business and Profession Committee and the report is on the Bureau's website. Once a date has been set for the Bureau's Sunset Review Hearing the date will be added to the website.
- FY To Date Statistics – The Bureau has issued 33 new licenses since July 1, 2013. There have been a total of 741 licenses issued since the inception of the Bureau and 622 licenses are active at this time. The Bureau has received 42 new complaints since July 1, 2013, closed 38, there are 31 pending complaints, and the average days to close a complaint are 91 days. Since July 1, 2013 there have been two citations issued. When a citation is issued the licensee has the opportunity to appeal the citation, if the citation is not appealed it becomes final in 30 days and is posted on the Bureau's website. The Bureau currently has six licensees on probation and there have been no violations of probation.
- E-Newsletter – The Bureau has submitted its Fall/Winter edition of The Guardian to the DCA Publications office and the E-Newsletter is going through the review and approval process at this time. The Bureau plans to send the E-Newsletter out sometime in December. Ms. Lorenz asked the E-Newsletter be released in January if possible.
- Regulations – Client Notification regulations are waiting final approval. The next regulation will be the Disciplinary Guidelines and the Bureau is hoping to submit these regulations in the next quarter.
- Committee Member Status – Donna Estacio has resigned from the Advisory Committee and will be missed. The Senate Rules Committee has appointed Diana Amaya to fill the remaining portion of Ms. Estacio's term which expires January 2015. Ms. Amaya comes from the organization Hispanas Organized for Political Equality.

- Discussion on Committee Members Speaking at Outreach Events and Possible Venues – Ms. Ansel stated interest has been expressed by one of the Advisory Committee Members to speak at outreach events on behalf of the Bureau and introduced David Bouilly from the DCA Outreach staff to explain how outreach events are requested. Mr. Bouilly stated DCA receives requests from organizations for speakers that may be of interest to that specific audience. The number of engagements would probably start off slow but would increase in time. Mr. Bouilly proposed the DCA Outreach office begin contacting groups from their list to determine a need for speaker from the Bureau. Ms. Ansel stated it is important to be able to educate consumer on what a Professional Fiduciary is and what the Bureau does. Ms. Lorenz asked if approval will be needed for the outline of the presentation and it will. Ms. Lorenz volunteered to speak in San Diego, Orange, and Riverside. Mr. Cole volunteered to speak in the Northern Peninsula. Ms. de Vries also volunteered to speak in her area. Mr. Cole stated the California Bar Association trust and estates section has been working on a similar outreach program and the concern is self promotion by the speaker. To eliminate this concern a PowerPoint was created and speakers are required to adhere to this approved presentation and the Bureau should do something similar. Ms. Lorenz has an outline of a presentation that has been given MCLE blessing and she will share the outline with the Bureau. Ms. Ansel stated the Bureau will be happy to create a presentation outline for the committee. Ms. Thomson motioned to give the Bureau Chief authority to approve for Advisory Committee Members to speak at DCA outreach events as they come available. Ms. Federizo seconded the motion. There were five votes and the motion carried. Mr. Cole suggested a subcommittee be created to address outreach and would like this on the next agenda. Ms. Lorenz asked that committee members send ideas on this topic to the Bureau Chief.

#### 11. Bureau Budget Report – Robert de los Reyes, DCA Budget Analyst

Mr. de los Reyes reported there were no significant changes since his report at the Bureau's last meeting. Attachment #6 is a fund condition of the Bureau with the final figures from Fiscal Year (FY) 12/13. He explained to the committee how the fund condition is read.

FY 13/14 and 14/15 projections are still in the process of being completed and will not be final until the Governor announces the budget on January 10, 2014. Ms. Lorenz commented the Bureau seems to have a healthy budget at this time. Mr. de los Reyes stated the goal is to have three months in reserve and there is a law that the reserve cannot exceed 24 months. Ms. de Vries asked if the reserve exceeds 24 months would the Bureau lower fees. Mr. de los Reyes answered this

would be considered. Mr. Cole asked if it did exceed would the excess automatically go to the general fund. Mr. de los Reyes answered not necessarily, but the fund would have to be reassessed and the reserve lowered. Mr. Cole also commented other licensing agencies have a restitution fund for consumers who have been harmed and asked if the Bureau has this. Ms. Ansel stated the Bureau does not have such a fund.

#### 12. Legislative Update – Scott Allen, DCA Legislative Analyst

Mr. Allen commented that his presentation on AB937 was left out of the minutes from the July 31, 2013 Advisory Committee Meeting. Ms. Bigelow will review the recording of that meeting and correct the minutes to be re-approved at the next meeting if appropriate.

AB 381 extends double-damage provisions to an attorney-in-fact who misappropriates property through undue influence, in bad faith, or through acts of financial elder abuse, and specifically allows a court to award attorney's fees and costs in addition to double damages. The bill was sponsored by Conference of California Bar Associations and was signed by the Governor and chaptered. AB 937 provides that a conservator's control of a conservatee shall not extend to personal rights retained by the conservatee, such as the right to receive visitors, telephone calls, and personal mail, unless limited by court order. The bill was signed by the Governor and chaptered.

AB 1029 clarifies how the partial liquidation exception is to be determined and the information on which the trustee may rely regarding that determination. This bill would also provide immunity from liability for a trustee who makes an improper allocation in reliance on the proposed methods to determine whether or not the money received by an entity is a partial liquidation. This bill was sponsored by the Trusts and Estates Section of the State Bar of California. DCA did not analyze this bill but did have it on the watch list.

AB 1339 requires a court-appointed conservator, or proposed conservator, who is also a Professional Fiduciary, to disclose their total fees or compensation at the time a petition to appoint a conservator is filed. This bill would also allow for periodic payments from the estate to the conservator but only after a fee schedule or statement of compensation has been properly filed. This bill was sponsored by the Professional Fiduciaries Association of California. DCA held a position of neutral on this bill and the bill was signed by the Governor.

SB 156 limits a guardian or conservator from collecting fees from a ward's or conservatee's estate for any costs or fees that the guardian or conservator incurred in defending the guardian or conservator's compensation petition unless specified conditions are met. This bill was sponsored by the California Senior Legislature. This bill was amended after the Bureau's July meeting to remove the courts discretion in these cases. This bill was vetoed by the Governor and he expressed his issue with this bill was the removal of the courts discretion. The Governor would likely have signed this bill if that change had not been made.

Ms. de Vries asked if DCA was aware of a bill that requires home care attendants who work over eight hours is paid time and a half. Mr. Allen stated DCA did not track that bill but it was signed and chaptered.

Ms. Lorenz asked that DCA follow bills that are related to care givers since licensees work with them all the time.

Mr. Cole stated AB 140 also passed which changes the definition of undue influence which licensees should be aware of. Also, a bill was vetoed that would have required notaries to be a mandated reporter. A move was made to obtain control over paralegals and that was also vetoed AB 888.

Ms. Lorenz stated there was also a bill to require caregivers to be licensed which was also vetoed.

Ms. Federizo asked if AB 937 is retroactive. Mr. Scott stated that it was not.

Mr. Cole would like a legislative section to be included in the E-Newsletter

Ms. Bigelow stated there is a section in the E-Newsletter for legislation.

Ms. Ansel asked that if there is anything specific the committee members would like followed to please let her know.

There are two bills that have been signed and chaptered that affects all programs.

AB 258 requires, on or after July 1, 2014, every state agency that requests on any written form or written publication, or through its website, whether a person is a veteran, to request that information only in the following format: "Have you ever served in the United States military?"

AB 1057 requires, after January 1, 2015, all licensing programs within the Department of Consumer Affairs to ensure all applications for licensure ask whether the applicant is serving in, or has previously served in, the military.

Ms. Lorenz asked for public comment on items that had been discussed so far in the meeting.

This item was done prior to item #13

Mr. Counts stated AB 1339 description is not technically correct and that it should be corrected. Ms. Scott stated this was created by the DCA legislative office. He would also like to suggest since the budget is doing so well that the Bureau look at what can be done to achieve the Bureau's goals before the reserves go over 24 months before the Bureau loses the funds to the general fund. Ms. Scott asked Mr. Allen look at AB 1339 to see if the description needs to be changed.

### 13. Future Agenda Items

Develop a program for a speaker's bureau and outreach subcommittee

University of California Berkeley Presentation

Review of July 31, 2013 Meeting Minutes

### 14. Future Meeting Dates

Ms. Ansel would like to propose the next meeting be done in conjunction with an Action Planning meeting.

- Advisory Committee Future Meeting Dates  
February 4, 2014  
February 5, 2014  
May 6, 2014  
August 27, 2014  
November 18, 2014
- Education Subcommittee Future Meeting Dates  
December 12, 2013 at 9:30am by teleconference
- Ethics Subcommittee Future Meeting Dates  
January 14, 2013

15. Public Comment on Items Not on the Agenda  
There was no public comment on items not on the agenda.

16. Adjournment  
The meeting was adjourned at 1:33pm

