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3 **Professional Fiduciaries Bureau (Bureau)**
4 **Advisory Committee Meeting**
5 **Wednesday, June 20, 2018**

6 **Meeting Minutes**

7
8 **Committee Members Present**

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

15
16 **Committee Members Absent**

17 King Gee

18
19 **Department of Consumer Affairs (DCA) Staff Present**

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

- 23
24
25 1) Call to Order – Ms. To called the meeting to order at 10:05 a.m. and stated the meeting date and
26 locations.
27
28 2) Roll Call & Establishment of Quorum –
29 Ms. Cuadra called roll. Committee members Ms. Hang Le To, Ms. Kathleen Thomson, and Ms.
30 Dawn Akel were present at meeting location 1625 N. Market Blvd, Sacramento, CA 95834. Ms.
31 Aileen Federizo was present via teleconference from teleconference location 6345 Balboa Blvd.,
32 #114, Bldg. 1, Encino, CA 91316. Ms. Barbara de Vries was present via teleconference from
33 teleconference location 5-Third Street, Suite 1132, San Francisco, CA 94103. Ms. Jenny Chacon
34 was absent. A quorum was established with five members present. Ms. Chacon arrived after the
35 establishment of a quorum at 10:27 a.m.
36
37 3) Advisory Committee, Bureau Chief, Staff and Legal Counsel Introductions – Committee Members
38 introduced themselves. Ms. Jordan Goldstein introduced herself from the San Francisco
39 teleconference location.
40
41 Public Comment: None.
42
43 4) Reading of the Professional Fiduciaries Bureau Mission Statement –
44 Ms. May read the Bureau’s new mission statement.
45
46 Public Comment: None.

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2 5) Discussion and Possible Approval of the Advisory Committee Meeting Minutes from March 29,
3 2018 –

4 Ms. Akel motioned to approve the minutes as written. Ms. Federizo seconded the motion. A vote
5 by roll call was made: Ms. de Vries, Ms. Federizo, Ms. Akel, Ms. Thomson, and Ms. To were in
6 favor. Ms. Chacon and Mr. Gee were absent for the vote. The motion carried with six votes.
7

8 Public Comment: None.
9

10 6) Updates from the Director's Office –

11 Ms. Karen Nelson, Assistant Deputy Director of Board and Bureau Services, presented updates
12 from the Director's Office.

13 The Director's quarterly meeting was held on April 30, 2018 to discuss prorata and Department
14 policies and procedures. The next Director's quarterly meeting will be held on August 6, 2018.
15 Director, Dean Grafilo, will begin holding regular leadership meetings and committee members
16 are welcome to participate in the upcoming meeting on June 25, 2018.

17 Finally, in April the Department launched licensing and enforcement workgroup meetings to
18 identify, strengthen and improve business processes throughout the department. There were
19 more than 60 Executive Officers, Bureau Chiefs, and key staff in attendance at the meeting.
20

21 Public Comment: None.
22

23 7) Bureau Updates –

24 • Statistics –

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

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

33 • Outreach events –

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

39 • Bureau's 2018-2022 Strategic Plan –

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

4
5 Public Comment: None.

6
7 • 2017 Continuing Education Audit –

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

12
13 Public Comment: None.

14
15 • E-Newsletter –

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

19
20 Public Comment: None.

21
22 8) Budget Report –

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

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

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

33
34 Public Comment: None.

35
36 9) Legislative Update –

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

38 • 2018 Legislation Related to the Bureau

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

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

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

- 2018 Legislation Related to the Department
Mr. Millington reviewed the handout presented in the materials. There were no comments made during the bill review of bills related to the Department.
- Update regarding the difference between general and limited conservatorships in regard to AB 1779 (Nazarian) Sexual orientation: change efforts
This bill did not make a distinction between general and limited conservatorships and the bill is now dead.
- Discussion of legislative proposals related to AB 3144 (Assembly Committee on Business and Professions) Professional Fiduciaries Bureau
Mr. Millington reviewed the handout of legislative proposals. The following comments were made during the legislative proposal review:
 1. Requiring licensure of decedent estate administrators – Ms. Thomson asked how many clients would a decedent estate administrator have to have to require licensing and Ms. Cuadra replied it is currently drafted into the definition section under conservators and guardian, so licensing would be required if there was more than one client. Ms. Federizo asked if this included administrators and Ms. May stated the bill was amended this morning and read the amended language. Mr. Millington stated that section 58 of the Probate Code further defines as: executor, administrator, administrator with the will annexed, special administrator, successor personal representative, public administrator, or person performing substantially the same functions under another jurisdiction.
 2. Billing clients for responding to complaints – Ms. Federizo stated as fiduciaries she works with families who are in conflict and many complaints are made with other agencies such as Adult Protective Services and the police and they charge for their time responding to those complaints. She sees other agencies similar to the Bureau and feels if the complaints are not justified, the fiduciary should be able to charge for their time. Mr. Millington clarified this is only with complaints filed with the Bureau and does not extend to other agencies. Ms. Federizo does not understand if the client or family member complains to the Bureau quarterly and it is the same complaint why the fiduciary would not be able to charge for their time. Ms. May stated if a complainant continues to contact the Bureau with the same allegations, the Bureau would not reopen the complaint and contact the licensee unless new allegations were made. Mr. Millington added that sometimes a response is not required from the fiduciary and contact would only be made if a response is needed from the fiduciary.
 3. Additional pathway to licensure – Ms. Akel asked if an associates degree would also be required. Mr. Millington stated with an associate’s degree the applicant would need three years of experience. Ms. Cuadra added an applicant would still qualify with a bachelor’s degree. Ms. Federizo asked if a person acting for a family member for five

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

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

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

33
34 Break: 11:46 a.m. – 11:57 a.m.
35

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

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2 Public Comment: None.
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4 11) Proposed Rulemakings -

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

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

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

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

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

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

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

1 Public Comment: None.

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3 14) Future Agenda Items

4 • Include number of applications received with licensing and enforcement statistics

5 • Follow-up on AB 2113

6 • Follow-up on AB 2750

7 • Action Plan

8 • Update on AB 3144

9

10 Public Comment: None.

11

12 15) Future Meeting Dates

13 -Wednesday, August 15, 2018

14 -Wednesday, November 7, 2018

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

16

17 Public Comment: None.

18

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

20

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